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ROBERT "BOB" BURNS
Chairman

ARIZONA CORPORATION COMMISSION

February 10, 2020

Docket Control
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

RE: RETAIL ELECTRIC COMPETITION
DOCKET NO. RE-00000A-18-0405

Commissioners and Interested Parties:

On September 24, 2019, we docketed a letter informing everyone that our two offices would be collaborating on drafting rules to try to move this process along in a more expeditious manner. What we have drafted and attached to this letter is two sets of draft rules. Both sets of draft rules allow all customers to participate in retail electric competition, i.e., customer choice.

One primary difference between the two drafts is that Draft A eliminates the definition of Eligible Customer, because in this draft all customers are eligible to take advantage of customer choice. Draft B includes a definition of Eligible Customer that allows all customers to participate by allowing customers that do not individually meet the 100kW threshold (in Staff's initial draft of rules), to aggregate their load up to a threshold of 400kW.

Another difference of note is that Draft A does not allow current utilities to participate in retail competition, while Draft B does allow it. In addition, Draft A would have the Providers of Last Resort ("POLR") be competitive Electric Service Providers ("ESPs"), while Draft B would allow either ESPs or Affected Utilities to be POLR.

After reading the two drafts, it will be obvious that there are additional differences to the ones noted above. The reader may find that they believe these other differences are more significant than the ones we have pointed out.

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We would like to emphasize that these two proposals are only drafts and as such will require modifications, however, we also believe that they are a good starting point. Hopefully, interested parties can file comments to these two proposed drafts prior to the Commission's February 25, 2020 workshop, in order to allow the Commissioners to have a more productive discussion regarding the drafts.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert L. Burns".

Robert L. Burns
Chairman

A handwritten signature in blue ink, appearing to read "Justin Olson".

Justin Olson
Commissioner

Draft A

ARTICLE 16. RETAIL ELECTRIC COMPETITION

R14-2-1601. Purpose¹

- A. The purpose of the rules in Article 16 is to enact the public policy of this State that a competitive market shall exist in the sale of the electric generation service. A.R.S. § 40-202(B).
- B. The Commission enacts these rules pursuant to its ratemaking authority under the Arizona Constitution, Article XV and under Arizona Revised Statutes Title 40-202, -203, -250, -321, -322, -331, -332, -336, -361, -365, and -367.
 1. Due to advancements in electric generation technology and greater competition in the wholesale electric market, we find it is now in the public interest to permit retail customers to obtain direct access to a competitive generation market.
 2. We find that competitive market forces will aid in the Commission's ability to ensure just and reasonable electricity rates for consumers.
- C. The purpose of this chapter is to provide for a fair and orderly transition from the current structure of regulated monopolies to a structure of regulated competition among electric service providers.
 1. Incumbent utilities shall unbundle their rates and services.
 2. Incumbent utilities shall provide open access over their transmission and distribution systems to allow competitive suppliers to generate and sell electricity directly to consumers of the state.
 3. Electric service providers will be required to obtain a Certificate of Convenience and Necessity before providing electric service in the state.
 4. It is in the public interest for the transmission and distribution of electricity to continue to be regulated as natural monopoly.
 5. All participants in the competitive market are encouraged to coordinate their plans and transactions through the Independent Scheduling Administrator, Independent System Operator, or its functional equivalent.
 6. Given a competitive market, incumbent utilities may decide to divest assets and seek recovery of transition or stranded costs.

R14-2-1602. Definitions

In this Article, unless the context otherwise requires:

1. "Affected Utilities" means the following public service corporations serving electric load in Arizona but excluding any with more than half of its customers located outside of Arizona:² Tucson Electric Power Company, Arizona Public Service Company, UNS Electric, Arizona Electric Power Cooperative, Trico Electric Cooperative, Duncan Valley Electric

¹ Many of these purpose statements were adapted from Pennsylvania Statutes § 66-2802.

² Staff Revisions docketed July 1, 2019, Page 1.

Cooperative, Graham County Electric Cooperative, Mohave Electric Cooperative, Sulphur Springs Valley Electric Cooperative, Navopache Electric Cooperative, Ajo Improvement Company, and Morenci Water and Electric Company.

2. "Aggregation" means the combination and consolidation of loads of multiple customers.³
3. "Aggregator" means an Electric Service Provider that, as part of its business, combines retail electric customers into a purchasing group.
4. "Ancillary Services" means those services designated as ancillary services in Federal Energy Regulatory Commission Order 888, including the services necessary to support the transmission of electricity from resource to load while maintaining reliable operation of the transmission system in accordance with good utility practice.
5. "Bundled Service" means electric service provided as a package to the consumer including all generation, transmission, distribution, ancillary and other services necessary to deliver and measure useful electric energy and power to consumers.
6. "Commission" means the Arizona Corporation Commission.
7. "Competition Transition Charge" (CTC) is a means of recovering Stranded Costs.
8. "Competitive Services" means all aspects of retail electric service except those services specifically defined as "Noncompetitive Services" pursuant to R14-2-1601(29) or noncompetitive services as defined by the Federal Energy Regulatory Commission.
9. "Consumer Education" is the provision of impartial information to consumers about competition or Competitive and Noncompetitive Services and is distinct from advertising and marketing.
10. "Control Area Operator" is the operator of an electric system or systems, bounded by interconnection metering and telemetry, capable of controlling generation to maintain its interchange schedule with other such systems and contributing to frequency regulation of the interconnection.
11. "Community Choice Aggregation ("CCA"), also known as municipal aggregation, is a program that allows local governments to procure power on behalf of their residents, businesses, and municipal accounts from an alternative supplier while still receiving transmission and distribution service from their incumbent utility provider.⁴
12. "Current Transformer" (CT) is an electrical device used in conjunction with an electric meter to provide a measurement of energy consumption for metering purposes.
13. "Delinquent Accounts" means customer accounts with outstanding past-due payment obligations that remain unpaid after the due date.
14. "Direct Access Service Request" (DASR) means a form that contains all necessary billing and metering information to allow customers to switch electric service providers. This form must be submitted to the Utility Distribution Company by the customer's Electric Service Provider.⁵
15. "Distribution Primary Voltage" is voltage as defined under the Affected Utility's Federal Energy Regulatory Commission (FERC) Open Access Transmission Tariff, except for

³ Staff Revisions provide the following definition of "Aggregation:" "means the combination and consolidation of loads of multiple customers within the service area granted to the Electric Service Provider under the terms of its CC&N."

⁴ Staff Revisions docketed July 1, 2019, Page 1.

⁵ Staff Revisions make a point to change Utility Distribution Company to "Affected or Incumbent Utility."

- Meter Service Providers, for which Distribution Primary Voltage is voltage at or above 600 volts (600V) through and including 25 kilovolts (25 kV).
16. "Distribution Service" means the delivery of electricity to a retail consumer through wires, transformers, and other devices that are not classified as transmission services subject to the jurisdiction of the Federal Energy Regulatory Commission; Distribution Service excludes Metering Services, Meter Reading Services, and billing and collection services, as those terms are used herein.
 17. "Electric Service Provider" (ESP) means a company supplying, marketing, or brokering at retail any Competitive Services pursuant to a Certificate of Convenience and Necessity.
 18. "Electric Service Provider Service Acquisition Agreement" or "Service Acquisition Agreement" means a contract between an Electric Service Provider and a Utility Distribution Company to deliver power to retail end users or between an Electric Service Provider and a Scheduling Coordinator to schedule transmission service.
 19. "Electronic Data Interchange" (EDI) is the computer-to-computer electronic exchange of business documents using standard formats which are recognized both nationally and internationally.⁶
 20. "Generation" means the production of electric power or contract rights to the receipt of wholesale electric power.
 21. "Incumbent Utility" means the electric utility entity regulated by the Commission that operates, constructs, and maintains the distribution system for the delivery of power to the end user point of delivery on the distribution system.
 22. "Independent Scheduling Administrator" (ISA) is an entity, independent of transmission-owning organizations, intended to facilitate nondiscriminatory retail direct access using the transmission system in Arizona.⁷
 23. "Independent System Operator" (ISO) is an independent organization whose objective is to provide nondiscriminatory and open transmission access to the interconnected transmission grid under its jurisdiction, in accordance with the Federal Energy Regulatory Commission principles of independent system operation.
 24. "Load Profiling" is a process of estimating a customer's hourly energy consumption based on measurements of similar customers.
 25. "Load-Serving Entity" means an Electric Service Provider, Affected Utility, or Utility Distribution Company, excluding a Meter Service Provider, and Meter Reading Service Provider.
 26. "Meter Number" is a unique, permanent, identification number used to identify each service delivery point.
 27. "Meter Reading Service" means all functions related to the collection and storage of consumption data.
 28. "Meter Reading Service Provider" (MRSP) means an entity providing Meter Reading Service, as that term is defined herein and that reads meters, performs validation, editing, and estimation on raw meter data to create billing-ready meter data; translates billing-ready data to an approved format; posts this data to a server for retrieval by billing agents; manages the server; exchanges data with market participants; and stores meter data for

⁶ Staff Revisions add a definition for "Eligible Customer" means all non-residential customer who use more than 100kW demand monthly.

⁷ Staff Revisions strike the ISO and the ISA definitions.

problem resolution.⁸

29. "Meter Service Provider" (MSP) means an entity providing Metering Service, as that term is defined herein.
30. "Metering and Metering Service" means all functions related to measuring electricity consumption.
31. "Must-Run Generating Units" are those local generating units that are required to run to maintain distribution system reliability and to meet load requirements in times of congestion on certain portions of the interconnected transmission grid.
32. "Net Metering" or "Net Billing" is a method by which customers can use electricity from customer-sited solar electric generators to offset electricity purchased from an Electric Service Provider. The customer only pays for the "Net" electricity purchased.
33. "Noncompetitive Services" means Distribution Service,⁹ transmission, and any ancillary services deemed to be non-competitive by the Federal Energy Regulatory Commission, Must-Run Generating Units services, provision of customer demand and energy data by an Affected Utility or Utility Distribution Company to Electric Service Providers
34. "OASIS" is Open Access Same-Time Information System, which is an electronic bulletin board where transmission-related information is posted for all interested parties to access via the Internet to enable parties to engage in transmission transactions.¹⁰
35. "Operating Reserve" means the generation capability above firm system demand used to provide for regulation, load forecasting error, equipment forced and scheduled outages, and local area protection to provide system reliability.
36. "Potential Transformer (PT)/Voltage Transformer (VT)" is an electrical device used to step down primary voltages to 120V for metering purposes.
37. "Provider of Last Resort" means a volunteer electric service provider certified in Arizona that has been designated by the Commission to provide a basic, standard retail service package.¹¹
38. "Public Power Entity" incorporates by reference the definition set forth in A.R.S. § 30-801.16.¹²
39. "Retail Electric Customer" means the person or entity in whose name service is rendered.
40. "Scheduling Coordinator" means an entity that provides schedules for power transactions over transmission or distribution systems to the party responsible for the operation and control of the transmission grid, such as a Control Area Operator, Arizona Independent Scheduling Administrator, or Independent System Operator.¹³
41. "Self-Aggregation" is the action of a retail electric customer that combines its own metered

⁸ Staff Revisions propose to strike both Meter Reading Service Provider and Meter Service Provider.

⁹ "Standard Offer Service" is removed from definition. This is the first mention of "Standard Offer Service" in the rules. If the Commission decides that Standard Offer Service should be competitively bid among ESPs, then it would be struck from the "noncompetitive services" list.

¹⁰ Staff Revisions eliminate the OASIS definition.

¹¹ Language adopted from Texas Admin Code § 25.5 (A)(90).

¹² Staff Revisions removes definition of "Public Power Entity."

¹³ Staff Revisions removes from "Scheduling Coordinator" the reference to the AIS or an ISO.

loads into a single purchase block.¹⁴

42. "Stranded Cost" includes:

a) The verifiable net difference between:

- i. The net original cost of all the prudent jurisdictional assets and obligations necessary to furnish electricity (such as generating plants, purchased power contracts, fuel contracts, and regulatory assets), acquired or entered into prior to (date TBD), under traditional regulation of Affected Utilities; and
- ii. The market value of those assets and obligations evidenced by the divestiture of those assets and obligations to an independent entity that is entirely unrelated to the Affected Utility.¹⁵

b) Reasonable costs necessarily incurred by an Affected Utility to effectuate divestiture of its generation assets;

c) Reasonable employee severance and retraining costs necessitated by electric competition, where not otherwise provided; and

d) Other transition and restructuring costs as approved by the Commission as part of the Affected Utility's Stranded Cost determination under R14-2-1607.

43. "System Benefits" means Commission-approved utility low income, demand side management, Consumer Education, environmental, renewables, long-term public benefit research and development, and nuclear fuel disposal and nuclear power plant decommissioning programs.¹⁶

44. "Transmission Primary Voltage" is voltage above 25 kV as it relates to metering transformers.

45. "Transmission Service" refers to the transmission of electricity to retail electric customers or to electric distribution facilities and that is so classified by the Federal Energy Regulatory Commission or, to the extent permitted by law, so classified by the Commission.

46. "Unbundled Service" means electric service elements provided and priced separately, including, but not limited to, such service elements as generation, transmission, distribution, Must Run Generation, metering, meter reading, billing and collection, and ancillary services. Unbundled Service may be sold to consumers or to other Electric Service Providers.

47. "Universal Node Identifier" is a unique, permanent, identification number assigned to each service delivery point.¹⁷

48. "Utility Distribution Company" (UDC) means the electric utility entity regulated by the Commission that operates, constructs, and maintains the distribution system for the delivery of power to the end user point of delivery on the distribution system.

49. "Utility Industry Group" (UIG) refers to a utility industry association that establishes national standards for data formats.

¹⁴ Removed "Standard Offer Service" from previous rules.

¹⁵ This amended definition attempts to effectuate the idea that stranded costs are only to be collected when companies divest assets and obligations and those divestitures are to independent entities with no relationship to the utility, i.e. not even a competitive affiliate.

¹⁷ Staff Revisions removes "Universal Node Identifier" and "Utility Distribution Company" from the definitions.

R14-2-1602. Commencement of Competition

- A. An Affected or Incumbent Utility's customers will be eligible for competitive electric services, subject to the Competitive Transition requirements in R14- 2-1604, on the date set by Commission Order in each Affected or Incumbent Utility's Stranded Cost and Unbundled Tariff proceeding.
- B. An Affected or Incumbent Utility's competitive electric affiliates or an affiliate of which it is a member shall not be permitted to offer Competitive Services in any other Affected Utility's service territory until the Commission has ordered the service area of the potential competitor's affiliated Affected Utility opened to competition.

R14-2-1603. Certificates of Convenience and Necessity

- A. Any Electric Service Provider intending to supply Competitive Services shall obtain a Certificate of Convenience and Necessity from the Commission pursuant to this Article. An Affected Utility need not apply for a Certificate of Convenience and Necessity to continue to provide electric service in its service area during the transition period set forth in R14-2- 1604. All other Affected Utility affiliates created in compliance with R14-2-1615(A) shall be required to apply for appropriate Certificates of Convenience and Necessity.
- B. Any company desiring such a Certificate of Convenience and Necessity shall file with the Docket Control Center the required number of copies of an application. In support of the request for a Certificate of Convenience and Necessity, the following information must be provided:
 - 1. A description of the electric services that the applicant intends to offer;
 - 2. The proper name and correct address of the applicant, and
 - a) The full name of the owner if a sole proprietorship,
 - b) The full name of each partner if a partnership,
 - c) A full list of officers and directors if a corporation, or
 - d) A full list of the members if a limited liability corporation;
 - 3. A tariff for each service to be provided that states the maximum rate and terms and conditions that will apply to the provision of the service;
 - 4. A description of the applicant's technical ability to obtain and deliver electricity if appropriate and to provide any other proposed services;
 - 5. Documentation of the financial capability of the applicant to provide the proposed services, including the most recent income statement and balance sheet, the most recent projected income statement, and other pertinent financial information. Audited information shall be provided if available;
 - 6. A description of the form of ownership (for example, partnership, corporation);
 - 7. For an applicant that is an affiliate of an Affected Utility, a statement of whether the Affected Utility has complied with the requirements of R14-2-1616, including the Commission Decision approving the Code of Conduct, where applicable; and
 - 8. Such other information as the Commission or the staff may request.
- C. The applicant shall report in a timely manner during the application process any changes in the information initially reported to the Commission in the application for a Certificate of Convenience and Necessity.
- D. The applicant **shall** provide public notice of the application as required by the Commission.
- E. At the time of filing for a Certificate of Convenience and Necessity, each applicant shall

notify the Affected Utilities, Utility Distribution Companies, or an electric utility not subject to the jurisdiction of the Arizona Corporation Commission in whose service territories it wishes to offer service of the application by providing a copy of the application to the Affected Utilities, Utility Distribution Companies, or an electric utility not subject to the jurisdiction of the Arizona Corporation Commission. No later than 10 days after application is filed, each applicant shall provide written notice to the Commission, through Docket Control, that it has provided notification to each of the respective Affected Utilities, Utility Distribution Companies, or an electric utility not subject to the jurisdiction of the Arizona Corporation Commission. The attachment to the CC&N application should include a listing of the names and addresses of the notified Affected Utilities, Utility Distribution Companies or an electric utility not subject to the jurisdiction of the Arizona Corporation Commission.

- F. The Commission may issue a Certificate of Convenience and Necessity that is effective for a specified period of time if the applicant has limited or no experience in providing the retail electric service that is being requested. An applicant receiving such approval shall have the responsibility to apply for appropriate extensions.
- G. The Commission may deny certification to any applicant who:
 - 1. Does not provide the information required by this Article;
 - 2. Does not possess adequate technical or financial capabilities to provide the proposed services;
 - 3. Seeks certification as a Load-Serving Entity and does not have an Electric Service Provider Service Acquisition Agreement with a Utility Distribution Company and Scheduling Coordinator, if the applicant is not its own Scheduling Coordinator;
 - 4. Fails to provide a performance bond, if required;
 - 5. Fails to demonstrate that its certification will serve the public interest;
 - 6. Seeks certification as a Load-Serving Entity and fails to submit an executed Service Acquisition Agreement with a Utility Distribution Company or a Scheduling Coordinator for approval by the Director, Utilities Division, prior to the offering of service to potential customers. Agreements are to be filed with the Compliance Section, Utilities Division.
- H. A Request for approval of an executed Service Acquisition Agreement may be included with an application for a Certificate of Convenience and Necessity. In all negotiations relative to Service Acquisition Agreements, Affected Utilities or their successor entities are required to negotiate in good faith.
- I. Every Electric Service Provider obtaining a Certificate of Convenience and Necessity under this Article shall obtain certification subject to the following conditions:
 - 1. The Electric Service Provider shall comply with all Commission rules, orders, and other requirements relevant to the provision of electric service;
 - 2. The Electric Service Provider shall maintain accounts and records as required by the Commission;
 - 3. The Electric Service Provider shall file with the Director, Utilities Division, through the Compliance Section, all financial and other reports that the Commission may require and in a form and at such times as the Commission may designate;
 - 4. The Electric Service Provider shall maintain on file with the Commission all current tariffs and any service standards that the Commission shall require;
 - 5. The Electric Service Provider shall cooperate with any Commission investigation of

- customer complaints;
6. The Electric Service Provider shall obtain all necessary permits and licenses, including relevant tax licenses;
 7. The Electric Service Provider shall comply with all disclosure requirements pursuant to R14-2-1617;
 8. Failure to comply with any of the above conditions may result in rescission of the Electric Service Provider's Certificate of Convenience and Necessity.
- J. In appropriate circumstances, the Commission may require, as a precondition to certification, the procurement of a performance bond sufficient to cover any advances or deposits the applicant may collect from its customers, or order that such advances or deposits be held in escrow or trust.
- K. Time-frames for processing applications for Certificates of Convenience and Necessity
1. This rule prescribes time-frames for the processing of any application for a Certificate of Convenience and Necessity issued by the Arizona Corporation Commission pursuant to this Article. These time-frames shall apply to applications filed on or after the effective date of this rule.
 2. Within 60 calendar days after receipt of an application for a new Certificate of Convenience and Necessity, or to amend or change the status of any existing Certificate of Convenience and Necessity, staff shall notify the applicant, in writing, that the application is either administratively complete or deficient. If the application is deficient, the notice shall specify all deficiencies.
 3. Staff may terminate an application if the applicant does not remedy all deficiencies within 60 calendar days of the notice of deficiency.
 4. After receipt of a corrected application, staff shall notify the applicant within 30 calendar days if the corrected application is either administratively complete or deficient. The time-frame for administrative completeness review shall be suspended from the time the notice of deficiency is issued until staff determines that the application is complete.
 5. Within 120 calendar days after an application is deemed administratively complete, the Commission shall approve or reject the application.
 6. For purposes of A.R.S. § 41-1072, et seq., the Commission has established the following time-frames:
 - a. Administrative completeness review time-frame: 90calendar days;
 - b. Substantive review time-frame: 120calendar days;
 - c. Overall time-frame: 210calendar days.
 7. If an applicant requests, and is granted, an extension or continuance, the appropriate time-frames shall be tolled from the date of the request during the duration of the extension or continuance.
 8. During the substantive review time-frame, the Commission may, upon its own motion or that of any interested party to the proceeding, for good cause shown, request a suspension of the time-frame rules.

R14-2-1604. Energy Choice Implementation

- A. As of [TBD], the Commission shall begin reviewing applications for Certificates of Convenience and Necessity from Electric Service Providers. The Commission shall also schedule and commence each Affected Utilities Stranded Cost and Unbundled Tariff proceeding.

- B. As of [TBD], all customers of Affected Utilities can begin taking service from a competitive electric service provider. All customers of Affected Utilities shall have the opportunity to purchase electricity from their choice of electric service providers.
- C. Ninety days after the start of competition, the Affected Utilities shall cease providing direct electric service to customers.
- D. Customers who have not chosen a competitive electric service provider will be placed on electric service with the competitive affiliate of their former Affected Utility.
- E. Competitive affiliates will be subject to charging the Price to Beat for three years.
 - 1. Competitive affiliates will continue to charge the same Commission approved rates for a period of three years. After three years, the Price to Beat will be lifted and the affiliates will be able to charge under their Commission approved competitive tariff.
- F. Cooperatives
 - 1. Affected Utilities organized as Cooperatives are presumed to be subject to competition, unless the members of the Cooperative vote to maintain their current service.
 - 2. Cooperatives will retain the ability to elect to enter competition at any time by a vote of their members.

R14-2-1605. Competitive Services

Competitive Services as defined in 2-1601(8) shall require a Certificate of Convenience and Necessity and a tariff as described in R14-2-1603. A properly certificated Electric Service Provider may offer Competitive Services under bilateral or multilateral contracts with retail consumers.

R14-2-1606. Services Required to be Made Available¹⁸

- A. On the date its service area is open to competition under R14-2-1602, each Affected Utility or Utility Distribution Company shall make available Noncompetitive Services at regulated rates.
- B. By the effective date of these rules, or pursuant to Commission Order, whichever occurs first, each Affected Utility or Utility Distribution Company shall file an Unbundled Service tariff that shall include a Noncompetitive Services tariff.
- C. To manage its risks, an Affected Utility or Electric Service Provider may include in its tariffs deposit requirements and advance payment requirements for Unbundled Services.
- D. Affected Utilities and Utility Distribution Companies must accept power and energy delivered to their distribution systems by other Load-Serving Entities and offer distribution and distribution-related ancillary services comparable to services they provide to themselves at their Noncompetitive Services tariffed rates.
- E. Customer Data
 - 1. Upon written authorization by the customer, a Load-Serving Entity shall release in a timely and useful manner that customer's billing data, including consumption, demand, and power factor (if available), for the most recent 12-month period to a customer-specified properly certificated Electric Service Provider.
 - 2. The Electric Service Provider requesting such customer data shall provide an accurate account number for the customer.

¹⁸ Rule 2-1606 outlines the provision of Standard Offer Service. If the new framework does not contemplate standard offer service it would need to be eliminated.

3. The form of data shall be mutually agreed upon by the parties and such data shall not be unreasonably withheld.
4. Utility Distribution Companies shall be allowed access to the Meter Reading Service Provider server for customers served by the Utility Distribution Company's distribution system.

F. Rates for Unbundled Services

1. The Commission shall review and approve rates for Competitive Services and Noncompetitive Services subject to Commission jurisdiction, before such services can be offered.
2. Such rates shall reflect the costs of providing the services.
3. Such rates may be downwardly flexible if approved by the Commission.

G. Electric Service Providers offering Competitive Services under this R14-2-1606 shall provide adequate supporting documentation for their proposed rates. Where rates are approved by another jurisdiction, such as the Federal Energy Regulatory Commission, those rates shall be provided as part of the supporting documentation.

R14-2-1607. Recovery of Stranded Cost of Affected Utilities

- A. The Commission shall allow a reasonable opportunity for recovery of unmitigated Stranded Cost by Affected Utilities. The Commission, however, recognizes a rebuttable presumption that Affected Utility's are not owed stranded costs due to a transition to competition.
- B. The Affected Utilities shall take every reasonable, cost-effective measure to mitigate or offset Stranded Cost by reducing costs, expanding wholesale or retail markets, or offering a wider scope of permitted regulated utility services for profit, among others.
- C. The Commission will consider recovery of stranded costs for particular assets and obligations provided that the Affected Utility elects to divest the asset. If the Affected Utility elects to retain assets, the Commission will assume the Affected Utility is not owed any stranded costs.
- D. The Commission will consider recovery of stranded costs for assets and obligations provided that the divestiture of those assets and obligations are the result of arm's length market based transactions with independent entities that are entirely unrelated to the Affected Utility.
- E. The Affected Utilities shall file estimates of unmitigated Stranded Cost on or before [Date TBD] or pursuant to Commission Order, whichever occurs first. Such estimates shall be fully supported by analyses and by records of market transactions undertaken by willing buyers and willing sellers.
- F. An Affected Utility shall request Commission approval, on or before [Date TBD], or pursuant to Commission Order, whichever occurs first, of distribution charges or other means of recovering unmitigated Stranded Cost. The filing may include a discounted stranded cost exit methodology that a consumer may choose to use to determine an amount due the Affected Utility in lieu of making monthly distribution charge or other payments.
- G. The Commission shall, after hearing and consideration of analyses and recommendations presented by the Affected Utilities, staff, and intervenors, determine for each Affected Utility the magnitude of Stranded Cost, and appropriate Stranded Cost recovery mechanisms and charges. In making its determination of mechanisms and charges, the Commission shall consider at least the following factors:
 1. The impact of Stranded Cost recovery on the effectiveness of competition;

2. The impact of Stranded Cost recovery on customers of the Affected Utility who do not participate in the competitive market;
 3. The impact, if any, on the Affected Utility's ability to meet debt obligations;
 4. The impact of Stranded Cost recovery on prices paid by consumers who participate in the competitive market;
 5. The degree to which the Affected Utility has mitigated or offset Stranded Cost;
 6. The degree to which some assets have values in excess of their book values;
 7. Appropriate treatment of negative Stranded Cost;
 8. The time period over which such Stranded Cost charges may be recovered. The Commission shall limit the application of such charges to a specified time period;
 9. The applicability of Stranded Cost to interruptible customers.
- H. A Competition Transition Charge (CTC) may be assessed on all retail customers based on the amount of generation purchased from any supplier. Any reduction in electricity purchases from an Affected Utility resulting from self-generation, demand side management, or other demand reduction attributable to any cause other than the retail access provisions of this Article shall not be used to calculate or recover any Stranded Cost from a consumer.
- I. Stranded Cost shall be recovered from customer classes in a manner consistent with the specific company's current rate treatment of the stranded asset, in order to effect a recovery of Stranded Cost that is in substantially the same proportion as the recovery of similar costs from customers or customer classes under current rates.
- J. The Commission may consider securitization as a financing method for recovery of Stranded Cost of the Affected Utility if the Commission finds that such method of financing will result in a lower cost alternative to customers.
- K. The Commission may, after notice and hearing, order regular revisions to estimates of the magnitude of Stranded Cost.

R14-2-1608. System Benefits Charges

- A. Each Affected Utility or Utility Distribution Company shall file for Commission review non-bypassable rates or related mechanisms to recover the applicable pro-rata costs of System Benefits from all consumers located in the Affected Utility's or Utility Distribution Company's service area. Affected Utilities or Utility Distribution Companies shall file for review of the Systems Benefits Charge at least every three years. The amount collected annually through the System Benefits charge shall be sufficient to fund the Affected Utilities' or Utility Distribution Companies' Commission-approved System Benefits. Filings shall be made with the Commission through Docket Control.
- B. Each Affected Utility or Utility Distribution Company shall provide adequate supporting documentation for its proposed rates for System Benefits.
- C. An Affected Utility or Utility Distribution Company shall recover the costs of System Benefits only upon hearing and approval by the Commission of the recovery charge and mechanism. The Commission may combine its review of System Benefits charges with its review of filings pursuant to R14-2-1606.

R14-2-1609. Transmission and Distribution Access

- A. The Affected Utilities shall provide nondiscriminatory open access to transmission and distribution facilities to serve all customers. No preference or priority shall be given to any distribution customer based on whether the customer is purchasing power under the

Affected Utility's Standard Offer or in the competitive market.

- B. Utility Distribution Companies shall retain the obligation to assure that adequate transmission import capability is available to meet the load requirements of all distribution customers within their service areas. Utility Distribution Companies shall retain the obligation to assure that adequate distribution system capacity is available to meet the load requirements of all distribution customers within their service areas.
- C. The Commission supports the development of Federal Energy Regulatory Commission-approved Regional Transmission Organization (RTO), an Independent System Operator (ISO) or, absent a Regional Transmission Organization or an Independent System Operator, an Arizona Independent Scheduling Administrator (AISA).¹⁹

R14-2-1610. In-state Reciprocity²⁰

- A. The service territories of Arizona electric utilities that are not Affected Utilities or Public Power Entities shall not be open to competition under the provisions of this Article, nor shall Arizona electric utilities which are not Affected Utilities be able to compete for sales in the service territories of the Affected Utilities.
- B. An Arizona electric utility, subject to the jurisdiction of the Commission, that is not an Affected Utility or a Public Power Entity may voluntarily participate under the provisions of this Article if it makes its service territory available for competing sellers, if it agrees to all of the requirements of this Article, and if it obtains an appropriate Certificate of Convenience and Necessity.
- C. An Arizona electric utility, not subject to the jurisdiction of the Commission, and that is not a Public Power Entity, may submit a statement to the Commission, through Docket Control, stating that it voluntarily opens its service territory for competing sellers in a manner similar to the provisions of this Article. Such statement shall be accompanied by the electric utility's nondiscriminatory electric supply tariffs, Unbundled Services rates, Stranded Cost charges, System Benefits charges, Distribution Services charges and any other applicable tariffs and policies for services the electric utility offers, for which these rules otherwise require compliance by Affected Utilities or Electric Service Providers. Such filings shall serve as authorization for such electric utility to utilize the Commission's Rules of Practice and Procedure and other applicable rules concerning any complaint that an Affected Utility or Electric Service Provider is violating any provision of this Article or is otherwise discriminating against the filing electric utility or failing to provide just and reasonable rates in tariffs filed under this Article.
- D. If an electric utility is an Arizona political subdivision or municipal corporation other than a Public Power Entity, then the existing service territory of such electric utility shall be deemed open to competition if the political subdivision or municipality has entered into an intergovernmental agreement with the Commission that establishes nondiscriminatory terms and conditions for Distribution Services and other Unbundled Services, provides a procedure for complaints arising therefrom, and provides for

¹⁹ In *Phelps Dodge*, the Court considered Subsections (C)-(J) together and decided the ACC did not have constitutional or statutory authority to direct the utilities to help organize, fund, and participate in the Arizona ISA. Although these revisions strike subsections (D)-(J), it is not clear why the ACC is prohibited from keeping subsection (C) which only provides an explanation of the Commission's support for a wholesale market and does not direct companies to do anything that would amount to managerial interference.

²⁰ Staff revisions propose to eliminate this entire section.

reciprocity with Affected Utilities or their affiliates. The Commission shall conduct a hearing to consider any such intergovernmental agreement.

- E. An affiliate of an Arizona electric utility which is not an Affected Utility or a Public Power Entity shall not be allowed to compete in the service territories of Affected Utilities unless the affiliate's parent company, the nonaffected electric utility submits a statement to the Commission, through Docket Control, indicating that the parent company will voluntarily open its service territory for competing sellers in a manner similar to the provisions of this Article and the Commission makes a finding to that effect.

R14-2-1611. Rates²¹

- A. Each Electric Service Provider selling services under this Article shall have on file with the Commission tariffs describing such services.
- B. The Commission shall approve in each Electric Service Provider Tariff a maximum and minimum rates for those services.
- C. The Commission shall determine the fair value of the company's property and take fair value into consideration when determining the appropriate maximum and minimum rate.
- D. In determining an appropriate maximum and minimum rate, the Commission shall consider all the costs to Electric Service Providers and general market conditions of providing electricity in the state.
- E. Prior to [Date TBD], competitively negotiated contracts governed by this Article customized to individual customers which comply with approved tariffs do not require further Commission approval. However, all such contracts whose term is one year or more and for service of 1 MW or more must be filed with the Director, Utilities Division, through the Compliance Section, as soon as practicable. If a contract does not comply with the provisions of the Load Serving Entity's approved tariffs, it shall not become effective without a Commission order. The provisions of such contracts shall be kept confidential by the Commission.
- F. Contracts entered into on or after [Date TBD], which comply with approved tariffs need not be filed with the Director, Utilities Division. If a contract does not comply with the provisions of the Load Serving Entity's approved tariffs, it shall not become effective without a Commission order.
- G. An Electric Service Provider holding a Certificate pursuant to this Article may price its Competitive Services, at or below the maximum rates specified in its filed tariff, provided that the price is not less than the marginal cost of providing the service.
- H. Requests for changes in maximum rates or changes in terms and conditions of previously approved tariffs may be filed with the Commission through Docket Control. Such changes shall become effective only upon Commission approval.
- I. The Commission will consider and adjudicate challenges to prices charged by an Electric

²¹ Current Rule 1611(A) was specifically invalidated in *Phelps Dodge* as an unlawful abrogation of the Commission's obligation to set rates. *Phelps Dodge* found the Commission could not simply allow the market to set the rates. It reads, "Market determined rates for Competitive Services, as defined in R14-2-1601 shall be deemed to be just and reasonable."

Service Provider even if the prices charged fall within previously approved maximum and minimum rates.²²

1. A complaint may be made by the Commission on its own motion, or by any person or association of persons by complaint in writing.
2. The Commission shall not consider the reasonableness of any rates or charges unless the complaint is signed by not less than fifty customers.
3. Upon filing of the complaint, the Commission shall set a hearing and shall serve a copy of the complaint upon the party complained of not less than ten days before the hearing.
4. The complainant and the party complained of, and such persons as the Commission allows to intervene, shall be heard in person or by attorney, and may introduce evidence at the hearing. The Commission shall issue process to enforce attendance of all necessary witnesses.
5. After the conclusion of the hearing, the Commission shall make and file an order containing its decision. The decision shall remain in force either for the period designated therein or until by further order of the Commission.

R14-2-1612. Customer Information²³

- A. The purpose of this section is to require that electricity providers enable customers to make informed choices regarding the purchase of electricity services offered by adequate and accurate customer information. Information shall be provided to customers in an understandable format that enables customers to compare prices and services on a uniform basis.²⁴
- B. In furnishing electricity service, ESPs shall comply with the following:
 1. Use common and consistent terminology in customer communications, including marketing, billing, and disclosure statements.
 2. Use the terms as defined in the Commission's "Consumer Dictionary for Electric Competition," maintain on file at the Commission.
 3. The Commission shall make dissemination of the Dictionary part of its Consumer Education Program.
- C. Bill format for residential and small business customers²⁵
 1. ESP prices billed must reflect the marketed prices and the agreed upon prices in the disclosure statement.
 2. Customer bills must contain the following charges, if these charges are applicable, and these charges must appear in a distinct section of the bill.
 - a. Generation charges
 - i. Generation charges shall be presented in a standard pricing unit for electricity in actual dollars or cents per kWh, actual average dollars or cents per kWh, kW or other Commission-approved standard

²² Procedures listed here are borrowed from complaint statutes A.R.S. §§ 40-246 through 249.

²³ Amendments to Rule 1612 are heavily influenced by and lifted from Pennsylvania Administrative Code 52 Pa §§ 54.1-54.10.

²⁴ 52 Pa § 54.1.

²⁵ Pa Code 52 S 54.4

pricing unit.

- b. Transmission charges
 - c. Distribution charges
 - d. Customer charge or basic charge
 - e. Meter services
 - f. Meter reading service
 - g. Systems benefit charge
 - h. Transition charges
 - i. Taxes
 - j. Late payment charges
 - k. Security deposit
 - l. Reconnection fee
 - m. Itemization of nonbasic charges
 - n. Overall billing total
3. The entity reading the meter for billing purposes shall provide the following electricity use data figures:
- a. The total annual electricity use for the past 12 months in kWh, including the current billing cycle. This is a single cumulative number.
 - b. The average monthly electricity use for the past 12 months in kWh, including the current billing cycle. This is a single cumulative number.
4. Definitions for the following charges and terms are required in a customer's bill, if they appear as billing items, as contained in "Common Electric Competition Terms" and shall be in a distinctly separate section of the bill:
- a. Generation charges.
 - b. Transmission charges.
 - c. Distribution charges.
 - d. Customer basic charge.
 - e. System benefits charge
 - f. Transition charges.
5. "General Information" is the required title for customer contact information in a customer's bill.
- a. The name, address, and telephone number for the EPS and the Utility Distribution Company shall be included.
 - b. The contact information shall be required on all customer bills with the billing entity's information first.

D. Disclosure Statement for residential and small business customers.²⁶

1. The agreed upon prices in the disclosure statement must reflect the marketed prices and the billed prices.
2. The EPS shall provide the customer written disclosure of the terms of service at no charge whenever:
 - a. The customer requests that an ESP initiate service.
 - b. The ESP proposes to change the terms of service.
 - c. Service commences from a default service provider.
3. The contract's terms of service shall be disclosed, including the following terms

²⁶ 52 Pa 54.5

and conditions, if applicable:

- a. Generation charges shall be disclosed according to actual prices.
- b. The variable pricing statement must include:
 - i. Conditions of variability (state on what basis prices will vary).
 - ii. Limits on price variability:
 - a. If there is a limit on price variability, such as a specific price cap, a maximum percentage increase in price between billing cycles or minimum/maximum charges per kilowatt-hour for electricity during the term of the contract, the EGS shall clearly explain the applicable limits.
 - b. If there is not a limit on price variability, the EGS shall clearly and conspicuously state that there is not a limit on how much the price may change from one billing cycle to the next.
- c. The price to be charged, per kilowatt-hour, for the first billing cycle of generation service.
- d. The length of the agreement, which includes:
 - i. The starting date.
 - ii. The expiration date, if applicable.
- e. An explanation of sign-up bonuses, add-ons, limited time offers, other sales promotions and exclusions, if applicable.
- f. An explanation of prices, terms and conditions for special services, including advanced metering deployment, if applicable.
- g. The cancellation provisions, if applicable.
- h. The renewal provisions, if applicable.
- i. An explanation of limits on price variability, penalties, fees or exceptions, printed in type size larger than the type size appearing in the terms of service.
- j. Customer contact information that includes the name of the ESP and the Utility Distribution Company address, telephone number, Commission license number and Internet address, if available. The ESP's information must appear first and be prominent.
- k. A statement that directs a customer to the Commission if the customer is not satisfied after discussing the terms of service with the ESP.
- l. For contracts with variable pricing, the ESP must provide:
 - i. A telephone number and Internet address at which a customer may obtain the previous 24 months' average monthly billed prices for that customer's rate class and the Utility Distribution Company service territory. If an ESP has not been providing generation service in a rate class and Utility Distribution Company service territory for 24 months, the ESP shall provide the average monthly billed prices for the months available to date.
 - ii. In plain language, a statement that historical pricing is not indicative of present or future pricing.

4. Customers shall be provided a 3-day right of rescission period following receipt of the disclosure statement.
 - a. The 3-day right of rescission is 3 business days.
 - b. The 3-day right of rescission begins when the customer receives the written disclosure.
 - c. The customer may cancel in writing, orally, or electronically, if applicable.
 - d. Waivers of the 3-day right of rescission are not permitted.
 5. Definitions for generation charges and transmission charges, if applicable, are required and shall be defined in accordance with the "Common Electric Competition Terms." Definitions for each of the nonbasic services, if applicable, are required. The definition section of the bill must be distinctly separate.
 6. The ESP shall include in the customer's disclosure statement the following statements which may appear together in a paragraph:
 - a. "Generation prices and charges are set by the electric generation supplier you have chosen."
 - b. "The Arizona Corporation Commission regulates the distribution prices and services."
 - c. "The Federal Energy Regulatory Commission regulates transmission prices and services."
 7. Disclosure statements must include the following customer notification: "If you have a fixed term contract approaching the expiration date, or whenever we propose to change the terms of service in any type of contract, you will receive two separate written notifications that precede either the expiration date or the effective date of the proposed changes. These notifications will explain your options going forward."
- E. Request for information about generation supply²⁷
1. The ESP shall respond to reasonable requests made by consumers or the Commission for information concerning generation energy sources.
 - a. ESPs shall respond by informing consumers that this information is included in the annual licensing report and that this report exists at the Commission. Providers shall explain that the report is available to them and offer to provide it, if requested.
 - b. EGSs operating for less than 1 year may respond to customer inquiries about generation energy sources by furnishing the information as described in subsection (b).
 2. Verification of the anticipated generation energy source, of the identifiable resources (if and when they have been "claimed") and the fact that energy characteristics were not sold more than once, shall be conducted by an independent auditor at the end of each calendar year and contained in the annual report to the Commission, relating to information disclosure requirements in subsection (a) and the licensing regulations in this chapter.
 3. Whenever ESPs market their generation as having special characteristics, such as "produced in Arizona" or "environmentally friendly" and the like, providers shall have information available to substantiate their claims.

²⁷ 52 Pa § 54.6.

- a. Disclosure of generation energy sources shall be identifiable, which is defined as electricity transactions which are traceable to specific generation sources by any auditable contract trail or equivalent, such as a tradable commodity system, that provides verification that the electricity source claimed has been sold only once to a retail customer. If generation energy sources are not identifiable, the provider shall disclose this fact.
4. Electricity providers, whether they make distinguishing claims or not, shall include in their general communications with consumers that electricity is the product of a mix of generation energy sources, that is delivered over a system of wires.
5. Electricity providers shall respond to reasonable consumer requests for energy efficiency information, by indicating that these materials are available upon request from the Commission.
6. The use of general, unsubstantiated and unqualified claims of environmental benefits, such as “green” and “environmentally friendly,” is prohibited. The Commission supports the application of the Federal Trade Commission’s (FTC) Guides for the Use of Environmental Marketing Claims (see 16 CFR 260.1—260.8 (relating to guides for the use of environmental marketing claims)), in the enforcement of this section and the following specific principles:
 - a. Section 260.6(a) (relating to general principles) which states that qualifications or disclosure should be clear, prominent, and of relative type size and proximity to the claim being qualified. In addition, contrary assertions which undercut the qualifications should not appear.
 - b. Section 260.6(c) which states that environmental claims should not overstate the environmental attribute or benefit, expressly or by implication.
 - c. Section 260.6(d) which suggests that marketing materials which make comparative claims should clearly state the basis for the comparison, be able to be substantiated, and be accurate at the time they are made.
 - d. Section 260.7(a) (relating to environmental marketing claims) which labels unqualified claims of environmental benefit as deceptive.
 - e. Section 260.7(f) which addresses claims regarding source reduction, such as reduced toxicity or reductions of other environmentally negative effects.
7. Residential and small business customers are entitled to receive at no charge and at least once a year, historical billing data from whomever reads the meter for billing purposes.
 - a. The Utility Distribution Company is only obligated to provide information that is readily available in its billing system.
 - b. The historical billing data shall be conveyed in terms of kWh, and kW, as applicable, and associated charges for the current billing period and for the year preceding the current billing period.
 - c. The historical billing data will be updated with each billing cycle.
8. Electricity providers shall notify consumers either in advertising materials, disclosure statements or bills that information on generation energy sources, energy efficiency, environmental impacts or historical billing data is available

upon request.

F. Marketing/sales activities²⁸

1. Advertised prices shall reflect prices in disclosure statements and billed prices.
2. Marketing materials that offer terms of service for acceptance by consumers shall include prices, as follows:
 - a. If using a fixed price, the ESP shall show in a table the price per kWh for an average customer using 500, 1,000 or 2,000 kWh of electricity.
 - b. If using a variable price mechanism, the EGS shall factor in all costs associated with the rate charged to the customer, and show the average price per kWh for usages of 500, 1,000 and 2,000 kWh of electricity in a table format.
 - c. The ESP shall note the effective date of the prices shown in the table provided under paragraph (1) or (2).
3. Advertising materials targeted for residential and small business sales shall be made available upon request of the Commission in the event of a formal or informal complaint or investigation.

G. Privacy of customer information²⁹

1. An ESP or Utility Distribution Company may not release private customer information to a third party unless the customer has been notified of the intent and has been given a convenient method of notifying the entity of the customer's desire to restrict the release of the private information. Specifically, a customer may restrict the release of either the following:
 - a. The customer's telephone number.
 - b. The customer's historical billing data.
2. Customers shall be permitted to restrict information as specified in subsection (a) by returning a signed form, orally or electronically.
3. Nothing in this section prohibits the ESP and Utility Distribution Company from performing their mandatory obligations to provide electricity service as specified in the disclosure statement and in the code.

H. Complaint handling process³⁰

1. ESPs and Utility Distribution Company's shall disclose to consumers the following with respect to the rights of consumers in the handling and resolution of complaints:
 - a. Residential and small business customers shall directly contact the party responsible for the service in question as an initial step for complaint and problem resolution. If the customer mistakenly contacts the wrong entity, the customer shall be promptly referred to the appropriate contact. In the event of a power outage, the customer shall be directed to the Utility Distribution Company.
 - b. Complaints that pertain to Chapter 56 (relating to standards and billing practices for residential utility service) matters shall be handled and

²⁸ 52 Pa § 54.7.

²⁹ 52 Pa § 54.8.

³⁰ 52 Pa § 54.9.

resolved in accordance with the applicable standards in Chapter 56.

- c. ESPs and Utility Distribution Company's shall give the Commission access to disclosure statements, billing and other customer information resources for compliance reviews as deemed necessary by the Commission. When complaints arise and are brought before the Commission for resolution, the obligation of the ESP shall be extended to the provision of pricing information.

I. Notice of contract expiration or change in terms for residential and small business customers.³¹

- 1. An ESP shall provide the following notices to customers prior to the expiration of a fixed term contract or prior to a change in contract terms:

- a. An initial notice shall be provided to each affected customer 45 to 60 days prior to the expiration date of the fixed term contract or the effective date of the proposed change in terms. For customers who have elected to receive electronic communications from the EGS, the notice shall be transmitted in the manner chosen by the customer. The initial notice must include:

- i. A general description of the proposed change in terms of service.
- ii. The date a change shall be effective or when the fixed term contract is to expire.
- iii. An explanation of why a change in contract terms is necessary.
- iv. A statement indicating when a follow-up options notice shall be issued with details regarding the proposed change.
- v. A statement explaining that the options notice must discuss the customer's options to the proposed change in terms of service or expiring fixed term contract.
- vi. A statement indicating whether the existing fixed term contract has a cancellation fee, and an explanation of the fee amount and how to avoid the fee, if possible, including notice of the date when the customer can choose a different product from the customer's existing ESP, choose an alternative EGS or return to default service.

- b. An options notice shall be provided, by first class mail, to each affected customer at least 30 days prior to the expiration date of the fixed term contract or the effective date of the proposed change in terms. The options notice must include:

- i. A statement advising the customer of the specific changes being proposed by the ESP and informing the customer of how to exercise the customer's options, including the customer's ability to accept the proposed changes, to choose another product offering from the customer's existing ESP, to select another ESP or to return to default service.
- ii. Information regarding new pricing or renewal pricing including the price to be charged, per kilowatt-hour, for the first billing cycle of generation service:

³¹ 52 Pa § 54.10

- a. If a customer fails to respond to the options notice and is converted to a month-to-month contract, the EGS shall provide a disclosure statement under § 54.5 (relating to disclosure statement for residential and small business customers).
 - i. Notice of a subsequent change in pricing shall be provided to the customer at least 30 days prior to the new price being charged.
 - ii. For customers who have elected to receive electronic communications from the ESP, notice of the change in pricing shall be transmitted in the manner chosen by the customer. For all other customers, notice shall be provided by first class mail.
 - b. If a customer fails to respond to the options notice and is entered into a new fixed term contract, the EGS shall provide the fixed, per kilowatt-hour price to be charged and term length of the contract.
 - c. The telephone numbers and Internet addresses, as applicable, for the the Commission, the Residential Utility Consumer Office, and [internet site TBD].
 - d. Language clearly visible on the front of the envelope used to provide the options notice stating that it contains important information regarding the expiration or changes in terms of the customer's electric supply contract.
- iii. When a customer fails to respond to either notice, the following apply:
- a. A fixed term contract shall be converted to one of the following:
 - i. A month-to-month contract, either at the same terms and conditions or at revised terms and conditions, as long as the contract does not contain cancellation fees.
 - ii. Another fixed term contract, as long as the new contract includes a customer-initiated cancellation provision that allows the customer to cancel at any time, for any reason, and does not contain cancellation fees.
 - b. The converted contracts shall remain in place until the customer chooses one of the following options:
 - i. Select another product offering from the existing ESP.
 - ii. Enroll with another ESP.

- J. No consumer shall be deemed to have changed providers of any service authorized in this Article (including changes from the Affected Utility to another provider) without written authorization by the consumer for service from the new provider. If a consumer is switched to a different ("new") provider without such written authorization, the new provider shall cause service by the previous provider to be resumed and the new provider shall bear all costs associated with switching the consumer back to the previous provider. A new provider who switches a customer without written authorization shall also refund to the retail electricity customer the entire amount of the customer's electricity charges attributable to the electric generation service from the new provider for three months, or the period of the unauthorized service, whichever is more. A Utility Distribution Company may request the Commission's Consumer Services Section to review or audit written authorizations to assure a customer switch was properly authorized. A written authorization that is obtained by deceit or deceptive practices shall not be deemed a valid written authorization. Electric Service Providers shall submit reports within 30 days of the end of each calendar quarter to the Commission, through the Compliance Section, Utilities Division, itemizing the direct complaints filed by customers who have had their Electric Service Providers changed without their authorization. Violations of the Commission's rules concerning unauthorized changes of providers may result in penalties, or suspension or revocation of the provider's certificate. The following requirements and restrictions shall apply to the written authorization form requesting electric service from the new provider:
1. The authorization shall not contain any inducements;
 2. The authorization shall be in legible print with clear and plain language confirming the rates, terms, conditions, and nature of the service to be provided;
 3. The authorization shall not state or suggest that the customer must take action to retain the customer's current electricity supplier;
 4. The authorization shall be in the same language as any promotional or inducement materials provided to the retail electric customer; and
 5. No box or container may be used to collect entries for sweepstakes or a contest that, at the same time, is used to collect authorization by a retail electric customer to change their electricity supplier or to subscribe to other services.
- K. Each Electric Service Provider providing service governed by this Article shall be responsible for meeting applicable reliability standards and shall work cooperatively with other companies with whom it has interconnections, directly or indirectly, to ensure safe, reliable electric service. Utility Distribution Companies shall make reasonable efforts to notify customers of scheduled outages and also provide notification to the Commission.
- L. Each Electric Service Provider shall provide at least 45 days' written notice to all of its affected consumers of its intent to cease providing generation, transmission, distribution, or ancillary services necessitating that the consumer obtain service from another supplier of generation, transmission, distribution, or ancillary services.
- M. All Electric Service Providers rendering service under this Article shall submit accident reports, through the Compliance Section, as required in R14-2-101.
- N. An Electric Service Provider providing firm electric service governed by this Article shall make reasonable efforts to reestablish service within the shortest possible time when service interruptions occur and shall work cooperatively with other companies to ensure timely restoration of service where facilities are not under the control of the Electric

Service Provider.

- O. Each Electric Service Provider shall ensure that bills rendered on its behalf include its address and the toll-free telephone numbers for billing, service, and safety inquiries. The bill must also include the address and toll-free telephone numbers for the Phoenix and Tucson Consumer Service Sections of the Arizona Corporation Commission Utilities Division. Each Electric Service Provider shall ensure that billing and collections services rendered on its behalf comply with subsection (A).

P. Additional Provisions for Metering and Meter Reading Services

1. When authorized by the consumer, an Electric Service Provider who provides metering or meter reading services pertaining to a particular consumer shall provide appropriate meter reading data via standardized formats, approved by the Director, Utilities Division, to all applicable Electric Service Providers serving that same consumer.
2. Any person or entity relying on metering information provided by an Electric Service Provider may request a meter test according to the tariff on file and approved by the Commission. However, if the meter is found to be in error by more than 3%, no meter testing fee will be charged.
3. Each competitive point of delivery shall be assigned a Universal Node Identifier by the Affected Utility or the Utility Distribution Company whose distribution system serves the customer.
4. Unless the Commission grants a specific waiver all competitive metered and billing data shall be translated into consistent, statewide formats, approved by the Director, Utilities Division, that shall be used by the Affected Utility or the Utility Distribution Company and the Electric Service Provider.
5. Unless the Commission grants a specific waiver, the standardized data exchange formats approved by the Director, Utilities Division, shall be used for all data exchange transactions from the Meter Reading Service Provider to the Electric Service Provider, Utility Distribution Company, and Schedule Coordinator. This data will be transferred via the Internet using a secure sockets layer or other secure electronic media.
6. Minimum metering requirements for competitive customers over 20 kW, or 100,000 kWh annually, should consist of hourly consumption measurement meters or meter systems. Predictable loads will be permitted to use load profiles to satisfy the requirements for hourly consumption data. The Load-Serving Entity developing the load profile shall determine if a load is predictable.
7. Competitive customers with hourly loads of 20 kW (or 100,000 kWh annually) or less will be permitted to use Load Profiling to satisfy the requirements for hourly consumption data, however, they may choose other metering options offered by their Electric Service Provider consistent with the Commission rules on Metering.
8. Metering equipment ownership will be limited to the Affected Utility, Utility Distribution Company, and the Electric Service Provider, or the customer, who must obtain the metering equipment through the Affected Utility, Utility Distribution Company, or an Electric Service Provider.
9. Maintenance and servicing of the metering equipment (including Current Transformers and Potential Transformers) will be limited to the Affected Utility, Utility Distribution Company, and the Electric Service Provider.

10. Distribution primary voltage Current Transformers and Potential Transformers may be owned by the Affected Utility, Utility Distribution Company, or the Electric Service Provider.
11. Transmission primary voltage Current Transformers and Potential Transformers may be owned by the Affected Utility or Utility Distribution Company only.
12. North American Electric Reliability Council-recognized holidays will be used in calculating "working days" for meter data timeliness requirements. If a holiday officially occurs on a Saturday, the preceding Friday will be recognized as the date of the holiday. If a holiday officially occurs on a Sunday, the following Monday will be recognized as the date of the holiday.
13. The Director, Utilities Division shall approve operating procedures to be used by the Utility Distribution Companies and the Meter Service Providers for performing work on primary metered customers.
14. The Director, Utilities Division shall approve operating procedures to be used by the Meter Reading Service Provider for validating, editing, and estimating metering data.
15. The Director, Utilities Division shall approve performance metering specifications and standards to be used by all entities performing metering.
- Q. Electric Service Providers shall comply with applicable reliability standards and practices established by the Western Systems Coordinating Council and the North American Electric Reliability Council or successor organizations.
- R. Electric Service Providers shall provide notification and informational materials to consumers about competition and consumer choices, such as a standardized description of services, as ordered by the Commission.
- S. The operating procedures approved by the Director, Utilities Division, will be used for Direct Access Service Requests as well as other billing and collection transactions.

R14-2-1613 Provider of Last Resort

- A. The purpose of this section is to establish the requirement for Provider of Last Resort (POLR) service and ensure that it is available to any requesting retail customer and any retail customer who is transferred an ESP because the customer's ESP failed to provide service to the customer or failed to meet its obligations.
- B. The provisions of this section applies only to areas open to competition where customers are served by ESPs.
- C. A POLR provider shall offer a basic, standard retail service package to customers it is designated to serve, which shall be limited to:
 1. Basic firm service; and
 2. Call center facilities available for customer inquiries.
- D. POLR service selection process
 1. All ESPs shall provide information to the Commission in accordance with this section. Based on this information, the Commission's designated representative shall designate ESPs that are eligible to serve as POLR providers in areas of the state in which customer choice is in effect, except that the commission shall not designate POLR providers in the service areas of MOUs or electric cooperatives unless an electric cooperative has delegated to the commission its authority to designate the POLR provider.
 2. POLR providers shall serve two-year terms. The initial term for POLR service in

areas of the state where retail choice is not in effect as of the effective date of the rule shall be set at the time POLR providers are initially selected in such areas.

3. In each even-numbered year, the Commission shall determine the eligibility of certified ESPs to serve as POLR providers for a term scheduled to commence in January of the next year.
 - i. All ESPs shall provide information to the Commission necessary to establish their eligibility to serve as a POLR provider for the next term. ESPs shall file, by July 10th, of each even numbered year, by service area, information on the classes of customers they provide service to, and for each customer class, the number of ESI IDs the ESP serves and the retail sales in megawatt-hours for the annual period ending March 31 of the current year. As part of that filing, an ESP may request that the commission designate one of its affiliates to provide POLR service on its behalf pursuant to subsection (k) of this section in the event that the ESP is designated as an LSP. The independent organization shall provide to the Commission the total number of ESI ID and total MWh data for each class. All ESPs shall also provide information on their technical capability and financial ability to provide service to additional customers in a mass transition. The Commission's determination regarding eligibility of a ESP to serve as POLR provider under the provisions of this section shall not be considered confidential information.
4. Eligibility to be designated as a POLR provider is specific to each POLR area and customer class. An ESP is eligible to be designated a POLR provider for a particular customer class in a POLR area, unless:
 - i. A proceeding to revoke or suspend the ESP's certificate is pending at the Commission, the ESP's certificate has been suspended or revoked by the Commission, or the ESP's certificate is deemed suspended.
 - ii. The Commission does not reasonably expect the REP to be able to meet the criteria set forth in subparagraph (B) of this paragraph during the entirety of the term;
 - iii. On the date of the commencement of the term, the ESP or its predecessor will not have served customers in Arizona for at least 18 months;
 - iv. The ESP does not serve the applicable customer class.
 - v. The ESP does not meet minimum financial, technical and managerial qualifications established by the Commission of this title.
5. For each term, the Commission shall publish the names of all of the ESPs eligible to serve as a POLR provider under this section for each customer class in each POLR area and shall provide notice to REPs determined to be eligible to serve as a POLR provider. A REP may challenge its eligibility determination within five business days of the notice of eligibility by filing with the commission additional documentation that includes the specific data, the specific calculation, and a specific explanation that clearly illustrate and prove the REP's assertion. Commission staff shall verify the additional documentation and, if accurate, reassess the REP's eligibility. Commission staff shall notify the REP of any change in eligibility status within 10 business days of the receipt of the additional documentation. A REP may then appeal to the commission through a contested case if the REP does not agree with the staff determination of eligibility. The contested status will not delay the designation of

POLR providers.

6. A standard form may be created by the commission for ESPs to use in filing information concerning their eligibility to serve as a POLR provider.
- E. Based on the information provided in accordance with this subsection and subsection (h) of this section, the commission shall post the names of VREPs on its webpage, including the aggregate customer count offered by VREPs. A REP may submit a request to be a VREP no earlier than June 1, and no later than July 31, of each even-numbered year. This filing shall include a description of the REP's capabilities to serve additional customers as well as the REP's current financial condition in enough detail to demonstrate that the REP is capable of absorbing a mass transition of customers without technically or financially distressing the REP and the specific information set out in this subsection. The commission's determination regarding eligibility of a REP to serve as a VREP, under the provisions of this section, shall not be considered confidential information.
- F. A POLR provider shall abide by the applicable customer protection rules as provided in these rules, except that if there is an inconsistency or conflict between the rules and this section, the provisions of this section will apply.
- G. Based on the information provided in accordance with this subsection, the Commission shall post the names of POLRs on its webpage, including the aggregate customer count offered. An ESP may submit a request to be a POLR no earlier than June 1, and no later than July 31, of each even-numbered year. This filing shall include a description of the ESP's capabilities to serve additional customers as well as the ESP's current financial condition in enough detail to demonstrate that the ESP is capable of absorbing a mass transition of customers without technically or financially distressing the ESP and the specific information set out in this subsection. The Commission's determination regarding eligibility of an ESP to serve as a POLR, under the provisions of this section, shall not be considered confidential information.
1. The ESP shall provide to the Commission the name of the ESP, the appropriate contact person with current contact information, which customer classes the ESP is willing to serve within each POLR area, and the number of ESI IDs the ESP is willing to serve by customer class and POLR area in each transition event.
 2. An ESP that has met the eligibility requirements of of this section and provided the additional information set out in this subsection is eligible for designation as a POLR.
 3. Commission staff shall make an initial determination of the ESPs that are to serve as a POLR for each customer class in each POLR area and publish their names. An ESP may challenge its eligibility determination within five business days of the notice of eligibility by submitting to commission staff additional evidence of its capability to serve as a POLR. Commission staff shall reassess the ESP's eligibility and notify the ESP of any change in eligibility status within 10 business days of the receipt of the additional documentation. An ESP may then appeal to the commission through a contested case if the ESP does not agree with the staff determination of eligibility. The contested status will not delay the designation of POLRs.
 4. A VREP may file a request at any time to be removed from the VREP list or to modify the number of ESI IDs that it is willing to serve as a VREP. If the request is to increase the number of ESI IDs, it shall provide information to demonstrate that it is capable of serving the additional ESI IDs, and the commission staff shall make an initial determination, which is subject to an appeal to the commission, in accordance

with the timelines specified in paragraph (3) of this subsection. If the request is to decrease the number of ESI IDs, the request shall be effective five calendar days after the request is filed with the commission; however, after the request becomes effective the VREP shall continue to serve ESI IDs previously acquired through a mass transition event as well as ESI IDs the VREP acquires from a mass transition event that occurs during the five-day notice period. If in a mass transition a VREP is able to acquire more customers than it originally volunteered to serve, the VREP may work with commission staff and ERCOT to increase its designation. Changes approved by commission staff shall be communicated to ERCOT and shall be implemented for the current allocation if possible.

- H. A POLR shall provide service to customers using a market-based, month-to-month product. The POLR shall use the same market-based, month-to-month produce for all customers in a mass transition that are in the same class and POLR area.

R14-2-1614. Reporting Requirements

- A. Reports covering the following items, as applicable, shall be submitted to the Director, Utilities Division, through the Compliance Section, by Affected Utilities or Utility Distribution Companies and all Electric Service Providers granted a Certificate of Convenience and Necessity pursuant to this Article. These reports shall include the following information pertaining to competitive service offerings, and Unbundled Services services in Arizona:

1. Type of services offered;
2. kW and kWh sales to consumers, disaggregated by customer class (for example, residential, commercial, industrial);
3. Revenues from sales by customer class (for example, residential, commercial, industrial);
4. Number of retail customers disaggregated as follows: residential, commercial/industrial under 21 kW, commercial/ industrial 21 to 999 kW, commercial/industrial 1000 kW or more, agricultural (if not included in commercial), and other;
5. Retail kWh sales and revenues disaggregated by term of the contract (less than one year, one to four years, longer than four years), and by type of service (for example, firm, interruptible, other);
6. Amount of revenues from each type of Competitive Service and, if applicable, each type of Noncompetitive Service provided (using breakdown from R14-2-1612(O));
7. Value of all assets used to serve Arizona customers and accumulated depreciation;
8. Tabulation of Arizona electric generation plants owned by the Electric Service Provider broken down by generation technology, fuel type, and generation capacity;
9. The number of customers aggregated and the amount of aggregated load; and
10. Other data requested by staff or the Commission.

B. Reporting Schedule

1. For the period through December 31, 2003, semi-annual reports shall be filed by April 15 (covering the previous period of July through December) and October 15 (covering the previous period of January through June). The first such report shall

cover the period January 1 through June 30, 1999.

2. For the period after December 31, 2003, annual reports shall be filed by April 15 (covering the previous period of January through December). The first such report shall cover the period January 1 through December 31, 2004.
- C. The information listed above may, at the provider's option, be provided on a confidential basis. However, staff or the Commission may issue reports with aggregate statistics based on confidential information that do not disclose data pertaining to a particular seller or purchases by a particular buyer.
- D. Any Electric Service Provider, Affected Utility, or Utility Distribution Company governed by this Article which fails to file the above data in a timely manner may be subject to a penalty imposed by the Commission or may have its Certificate rescinded by the Commission.
- E. Any Electric Service Provider holding a Certificate pursuant to this Article shall file a request in Docket Control to discontinue any competitive tariff as soon as practicable after the decision to discontinue offering service is made.
- F. In addition to the above reporting requirements, Electric Service Providers, Affected Utilities, and Utility Distribution Companies governed by this Article shall participate in Commission workshops or other forums whose purpose is to evaluate competition or assess market issues.

R14-2-1615. Administrative Requirements

- A. Any Electric Service Provider certificated under this Article may file with the Commission, through Docket Control, proposed additional tariffs for Competitive Services at any time which include a description of the service, maximum rates, terms, and conditions.
- B. Contracts filed pursuant to this Article shall not be open to public inspection or made public except on order of the Commission, or by the Commission or a Commissioner in the course of a hearing or proceeding.
- C. The Commission may consider variations or exemptions from the terms or requirements of any of the rules in this Article upon the application of an affected party. The application must set forth the reasons why the public interest will be served by the variation or exemption from the Commission rules and regulations. Any variation or exemption granted shall require an order of the Commission. Where a conflict exists between these rules and an approved tariff or order of the Commission, the provisions of the approved tariff or order of the Commission shall apply.
- D. The Commission may develop procedures for resolving disputes regarding implementation of retail electric competition.
- E. Prior to October 1, 1999, the Director, Utilities Division, shall implement a Consumer Education Program as approved by the Commission.

R14-2-1616. Separation of Monopoly and Competitive Services³²

- A. Beginning [TBD], an Affected Utility or Utility Distribution Company shall not provide Competitive Services as defined in R14-2-1601.
1. This Section does not preclude an Affected Utility or Utility Distribution Company from billing its own customers for distribution service, or from providing billing services to Electric Service Providers in conjunction with its own billing, or from providing Meter Services and Meter Reading Services for Load Profiled residential customers.
 2. This Section does not preclude an Affected Utility or Utility Distribution Company from owning distribution and transmission primary voltage Current Transformers and Potential Transformers.
- B. If an Affected Utility chooses to transfer its competitive generation assets or competitive services to a competitive electric affiliate, such transfer shall be at a value determined by the Commission to be fair and reasonable.³³
- C. An Electric Distribution Cooperative is not subject to the provisions of R14-2-1615 unless it offers competitive electric services outside of its distribution service territory.

R14-2-1617. Renewable Goal and Standard³⁴

- A. Any Load-Serving Entity selling electricity or aggregating customers for the purpose of selling electricity under the provisions of this Article must also meet the renewable goal or standard set in R14-2-#### unless otherwise ordered by the Commission. All Electric Service Providers would receive a pro rata share of funds from System Benefit Charges.

R14-2-1618. Competitive Safeguards³⁵

- A. The purpose of these competitive safeguards is to assure the provision of direct access on equal and nondiscriminatory terms to all customers and generation suppliers, prevent discrimination in rates, terms or conditions of service by electric distribution companies, prevent the cross subsidization of service amongst customers, customer classes or between related electric distribution companies and electric generation suppliers, to forbid unfair or deceptive practices by electric generation companies and electric generation suppliers, and to establish and maintain an effective and vibrant competitive market in the purchase and sale of retail electric energy in this State.
- B. If not previously filed, no later than 90 days after adoption of these Rules, each Affected Utility which plans to offer Non-competitive Services and which plans to offer

³² *Phelps Dodge* found requiring the companies to divest competitive generation assets did not "affect rates" and therefore was outside the ACC's constitutional ratemaking authority. However, the decision did affirm Section (B) which essentially prohibits Affected Utility's from competing. The decision also concluded, the "Commission can permissibly require an Affected Utility that chooses to transfer competitive assets to an affiliate to do so at a fair and reasonable price, as determined by the Commission. If such assets were transferred for an unfair price, the affiliate could gain an unfair advantage in the competitive market by being able to charge rates that are not needed to cover the cost of the assets. Thus, such a provision is aimed at controlling rates rather than controlling the Affected Utilities and is therefore permissible." ¶ 65.

³³ This was originally in subsection (A). *Phelps Dodge* specifically approved this language regarding the fair transfer of assets to affiliates.

³⁴ This new rule was added in the Staff Revisions.

³⁵ 52 Pa § 54.121.

Competitive Services through its competitive electric affiliate shall propose a Code of Conduct to prevent anti-competitive activities. Each Affected Utility that is an electric cooperative, that plans to offer Noncompetitive Services, and that is a member of any electric cooperative that plans to offer Competitive Services shall also submit a Code of Conduct to prevent anti-competitive activities. All Codes of Conduct shall be filed in Docket Control and be subject to Commission approval after a hearing.

C. The Code of conduct will affirm that ESPs and Utility Distribution Company's shall comply with the following requirements:

1. An utility distribution company may not give an ESP, including without limitation, its affiliate or division, any preference or advantage over any other ESP in processing a request by a utility distribution company customer for retail generation supply service.
2. Subject to customer privacy or confidentiality constraints, a utility distribution company may not give an electric generation supplier, including without limitation its affiliate or division, any preference or advantage in the dissemination or disclosure of customer information and any dissemination or disclosure shall occur at the same time and in an equal and nondiscriminatory manner. "Customer information" means all information pertaining to retail electric customer identity and current and future retail electric customer usage patterns, including appliance usage patterns, service requirements or service facilities.
3. A utility distribution company or ESP may not engage in false or deceptive advertising to customers with respect to the retail supply of electricity in this State.
4. Each utility distribution company shall adopt the following dispute resolution procedures to address alleged violations of this section:
 - a. Regarding any dispute between an utility distribution company or a related supplier, or both, and an electric generation supplier (each individually referred to as a "party" and collectively referred to as "parties"), alleging a violation of any of the provisions of this section, the electric generation supplier shall provide the electric distribution company or related supplier, or both, as applicable, a written notice of dispute which includes the names of the parties and customers, if any involved and a brief description of the matters in dispute.
 - b. Within 5 days of receipt of the notice by the utility distribution company or related supplier, or both, a designated senior representative of each of the parties shall attempt to resolve the dispute on an informal basis.
 - c. If the designated representatives are unable to resolve the dispute by mutual agreement within 30 days of the referral, the dispute shall be referred for mediation through the Commission. A party may request mediation prior to that time if it appears that informal resolution is not productive.
 - d. If mediation is not successful, the matter shall be converted to a formal proceeding before a Commission administrative law judge, and the prosecuting parties shall be directed to file a formal pleading in the nature of a complaint, petition or other appropriate pleading with the Commission within 30 days or the matter will be dismissed for lack of prosecution. Any party may file a complaint, petition or other appropriate pleading

concerning the dispute under any relevant provision of the Arizona Administrative Code.

5. A utility distribution company may not illegally tie the provision of any electric distribution service within the jurisdiction of the Commission to one of the following:
 - a. The purchase, lease or use of any other goods or services offered by the electric distribution company or its affiliates.
 - b. A direct or indirect commitment not to deal with any competing ESP.
6. A utility distribution company may not provide any preference or advantage to any ESP in the disclosure of information about operational status and availability of the distribution system.
7. A utility distribution company shall supply all regulated services and apply tariffs to nonaffiliated ESPs in the same manner as it does for itself and its affiliated ESP, and shall uniformly supply all regulated services and apply its tariff provisions in a nondiscriminatory manner.
8. Every utility distribution company and its affiliated ESP shall formally adopt and implement these provisions as company policy and shall take appropriate steps to train and instruct its employees in their content and application.
9. If a utility distribution company customer requests information about ESPs, the utility distribution company shall provide the latest list as compiled by the Commission to the customer over the telephone, or in written form or by other equal and nondiscriminatory means. In addition, an electric distribution company may provide the address and telephone number of an ESP if specifically requested by the customer by name. To enable utility distribution companies to fulfill this obligation, the Commission will maintain a written list of licensed ESPs. The Commission will regularly update this list and provide the updates to utility distribution companies as soon as reasonably practicable. The Commission will compile the list in a manner that is fair to all ESPs and that is not designed to provide any particular ESP with a competitive advantage.
10. A utility distribution company or its affiliate may not state or imply that any delivery services provided to an affiliate or division or customer of either are inherently superior, solely on the basis of their affiliation with the utility distribution company, to those provided to any other ESP or customer or that the utility distribution company's delivery services are enhanced should supply services be procured from its affiliate.
11. A utility distribution company with an affiliated ESP will adopt appropriate procedures to prevent cross subsidization between the utility distribution company and any competitive affiliates, including but not limited to the maintenance of separate books, records, and accounts.³⁶
12. A utility distribution company with an affiliated ESP will adopt appropriate procedures to limit the joint employment of personnel by both a utility distribution company and its competitive affiliate.
13. A utility distribution company with an affiliated ESP will adopt appropriate procedures to govern the use of the utility distribution company's name or logo

³⁶ These last provisions in this subsection 11-15 are simply taken from the Code of Conduct section in the current Arizona Code.

by the affiliated ESP.

14. A utility distribution company with an affiliated ESP will adopt appropriate procedures to eliminate joint advertising, joint marketing, or joint sales by a utility distribution company and its competitive affiliate.
15. A utility distribution company with an affiliated ESP will adopt appropriate procedures to govern transactions between a utility distribution company and its competitive affiliate.

R14-2-1619. Disclosure of Information

- A. Each Load-Serving Entity providing either generation service shall prepare a consumer information label that sets forth the following information:
 1. Price to be charged for generation services,
 2. Price variability information,
 3. Customer service information,
 4. Time period to which the reported information applies.
- B. Each Load-Serving Entity providing either generation service shall provide, upon request, the following information (to the extent reasonably known):
 1. Composition of resource portfolio,
 2. Fuel mix characteristics of the resource portfolio,
 3. Emissions characteristics of the resource portfolio.
- C. The Director, Utilities Division, shall develop the format and reporting requirements for the consumer information label to ensure that the information is appropriately and accurately reported and to ensure that customers can use the labels for comparisons among Load-Serving Entities. The format developed by the Director, Utilities Division, shall be used by each Load-Serving Entity.
- D. Each Load-Serving Entity shall include the information disclosure label in a prominent position in all written marketing materials specifically targeted to Arizona. When a Load-Serving Entity advertises in nonprint media, or in written materials not specifically targeted to Arizona, the marketing materials shall indicate that the Load-Serving Entity shall provide the consumer information label to the public upon request.
- E. Each Load-Serving Entity shall prepare an annual disclosure report that aggregates the resource portfolios of the Load-Serving Entity and its affiliates.³⁷
 1. The information described in this subsection shall be posted on any electronic information medium of the Load-serving Entities.
- F. Failure to comply with the rules on information disclosure or dissemination of inaccurate information may result in suspension or revocation of certification or other penalties as determined by the Commission.
- G. The Commission shall establish a consumer information advisory panel to review the effectiveness of the provisions of this Section and to make recommendations for changes in the rules.

³⁷ Terms of Service could be addressed above in Customer Information section and addressed with more thorough guidelines from 52 Pa § 54.5.

DRAFT B

ARTICLE 16. RETAIL ELECTRIC COMPETITION

R14-2-1601. Purpose

The purpose of the rules in Article 16 is to enact the public policy of this State that a competitive market shall exist in the sale of the electric generation service. A.R.S. § 40-202(B).

- A.** The Commission enacts these rules pursuant to its ratemaking authority under the Arizona Constitution, Article XV and under Arizona Revised Statutes Title 40-202, -203, -250, -321, -322, -331, -332, -336, -361, -365, and -367.
 - 1. Due to advancements in electric generation technology and greater competition in the wholesale electric market, we find it is now in the public interest to permit retail customers to obtain direct access to a competitive generation market.
 - 2. We find that competitive market forces will aid in the Commission's ability to ensure just and reasonable electricity rates for consumers.
- B.** The purpose of this chapter is to provide for a fair and orderly transition from the current structure of regulated monopolies to a structure of regulated competition among electric service providers.
 - 1. Affected Utilities shall unbundle their rates and services.
 - 2. Affected Utilities shall provide open access over their transmission and distribution systems to allow competitive suppliers to generate and sell electricity directly to consumers of the state.
 - 3. Electric service providers will be required to obtain a Certificate of Convenience and Necessity before providing electric service in the state.
 - 4. It is in the public interest for the transmission and distribution of electricity to continue to be regulated as natural monopoly.
 - 5. All participants in the competitive market are encouraged to coordinate their plans and transactions through the Independent Scheduling Administrator, Independent System Operator, or its functional equivalent.
 - 6. Given a competitive market, Affected Utilities may decide to divest assets and seek recovery of transition or stranded costs.

R14-2-1602. Definitions

In this Article, unless the context otherwise requires:

- 1. "Affected Utilities" means the following public service corporations serving electric load in Arizona but excluding any with more than half of its customers located outside of Arizona: Tucson Electric Power Company, Arizona Public Service Company, UNS Electric, Arizona Electric Power Cooperative, Trico Electric Cooperative, Duncan Valley Electric Cooperative, Graham County Electric Cooperative, Mohave Electric Cooperative, Sulphur Springs Valley Electric Cooperative, Navopache Electric Cooperative, Ajo Improvement Company, and Morenci Water and Electric Company.
- 2. "Aggregation" means the combination and consolidation of loads of multiple customers within the service area granted to the Electric Service Provider under the terms of its Certificate of Convenience and Necessity.
- 3. "Aggregator" means an Electric Service Provider that, as part of its business, combines retail

- electric customers into a purchasing group.
4. "Ancillary Services" means those services designated as ancillary services in Federal Energy Regulatory Commission Order 888, including the services necessary to support the transmission of electricity from resource to load while maintaining reliable operation of the transmission system in accordance with good utility practice.
 5. "Bundled Service" means electric service provided as a package to the consumer including all generation, transmission, distribution, ancillary and other services necessary to deliver and measure useful electric energy and power to consumers.
 6. "Commission" means the Arizona Corporation Commission.
 7. "Competition Transition Charge" (CTC) is a means of recovering Stranded Costs.
 8. "Competitive Services" means all aspects of retail electric service except those services specifically defined as "Noncompetitive Services" pursuant to R14-2-1601(33) or noncompetitive services as defined by the Federal Energy Regulatory Commission.
 9. "Consumer Education" is the provision of impartial information to consumers about competition or Competitive and Noncompetitive Services and is distinct from advertising and marketing.
 10. "Control Area Operator" is the operator of an electric system or systems, bounded by interconnection metering and telemetry, capable of controlling generation to maintain its interchange schedule with other such systems and contributing to frequency regulation of the interconnection.
 11. "Community Choice Aggregation ("CCA"), is a program that allows incorporated entities to procure power on behalf of their members, residents, businesses, and municipal accounts from an alternative supplier while still receiving transmission and distribution service from their incumbent utility provider.
 12. "Current Transformer" (CT) is an electrical device used in conjunction with an electric meter to provide a measurement of energy consumption for metering purposes.
 13. "Delinquent Accounts" means customer accounts with outstanding past-due payment obligations that remain unpaid after the due date.
 14. "Direct Access Service Request" (DASR) means a form that contains all necessary billing and metering information to allow customers to switch electric service providers. This form must be submitted to the Affected Utility by the customer's Electric Service Provider.
 15. "Distribution Primary Voltage" is voltage as defined under the Affected Utility's Federal Energy Regulatory Commission Open Access Transmission Tariff, except for Meter Service Providers, for which Distribution Primary Voltage is voltage at or above 600 volts (600V) through and including 25 kilovolts (25 kV).
 16. "Distribution Service" means the delivery of electricity to a retail consumer through wires, transformers, and other devices that are not classified as transmission services subject to the jurisdiction of the Federal Energy Regulatory Commission. Distribution Service excludes Metering Services, Meter Reading Services, and billing and collection services, as those terms are used herein.
 17. "Electric Service Provider" (ESP) means a company supplying, marketing, or brokering at retail any Competitive Services pursuant to a Certificate of Convenience and Necessity.
 18. "Electric Service Provider Service Acquisition Agreement" or "Service Acquisition Agreement" means a contract between an Electric Service Provider and an Affected Utility to deliver power to retail end users or between an Electric Service Provider and a Scheduling Coordinator to schedule transmission service.

19. "Electronic Data Interchange" (EDI) is the computer-to-computer electronic exchange of business documents using standard formats which are recognized both nationally and internationally.
20. "Eligible Customers" means any individual customer with a monthly demand of at least 100kW or an Aggregation of customers with a combined monthly demand of at least 400kW.
21. "Generation" means the production of electric power or contract rights to the receipt of wholesale electric power.
22. "Independent Scheduling Administrator" (ISA) is an entity, independent of transmission-owning organizations, intended to facilitate nondiscriminatory retail direct access using the transmission system in Arizona.
23. "Independent System Operator" (ISO) is an independent organization whose objective is to provide nondiscriminatory and open transmission access to the interconnected transmission grid under its jurisdiction, in accordance with the Federal Energy Regulatory Commission principles of independent system operation.
24. "Load Profiling" is a process of estimating a customer's hourly energy consumption based on measurements of similar customers.
25. "Load-Serving Entity" means an Electric Service Provider or Affected Utility, excluding a Meter Service Provider, and Meter Reading Service Provider.
26. "Meter Number" is a unique, permanent, identification number used to identify each service delivery point.
27. "Meter Reading Service" means all functions related to the collection and storage of consumption data.
28. "Meter Reading Service Provider" (MRSP) means an entity providing Meter Reading Service, as that term is defined herein and that reads meters, performs validation, editing, and estimation on raw meter data to create billing-ready meter data; translates billing-ready data to an approved format; posts this data to a server for retrieval by billing agents; manages the server; exchanges data with market participants; and stores meter data for problem resolution.
29. "Meter Service Provider" (MSP) means an entity providing Metering Service, as that term is defined herein.
30. "Metering and Metering Service" means all functions related to measuring electricity consumption.
31. "Must-Run Generating Units" are those local generating units that are required to run to maintain distribution system reliability and to meet load requirements in times of congestion on certain portions of the interconnected transmission grid.
32. "Net Metering" or "Net Billing" is a method by which customers can use electricity from customer-sited solar electric generators to offset electricity purchased from an Electric Service Provider. The customer only pays for the "Net" electricity purchased.
33. "Noncompetitive Services" means Distribution Service, transmission, and any ancillary services deemed to be non-competitive by the Federal Energy Regulatory Commission, Must-Run Generating Units services, provision of customer demand and energy data by an Affected Utility or Utility Distribution Company to Electric Service Providers.
34. "OASIS" is the Open Access Same-Time Information System, which is an electronic bulletin board where transmission-related information is posted for all interested parties to access via the Internet to enable parties to engage in transmission transactions.
35. "Operating Reserve" means the generation capability above firm system demand used to

- provide for regulation, load forecasting error, equipment forced and scheduled outages, and local area protection to provide system reliability.
36. "Potential Transformer (PT)/Voltage Transformer (VT)" is an electrical device used to step down primary voltages to 120V for metering purposes.
 37. "Provider of Last Resort" means an Affected Utility that is certified in Arizona that has been designated by the Commission to provide a basic, standard retail service package or a Commission certificated Electric Service Provider that has requested to be a Provider of Last Resort and has been approved by the Commission as such.
 38. "Public Power Entity" incorporates by reference the definition set forth in A.R.S. § 30-801.16.
 39. "Retail Electric Customer" means the person or entity in whose name service is rendered.
 40. "Scheduling Coordinator" means an entity that provides schedules for power transactions over transmission or distribution systems to the party responsible for the operation and control of the transmission grid, such as a Control Area Operator, Arizona Independent Scheduling Administrator, or Independent System Operator.
 41. "Standard Offer Service" means Bundled Service offered by an Affected Utility at regulated rates including metering, meter reading, billing and collection services, demand side management services including, but not limited to, time-of-use, and consumer information services. All components of Standard Offer Service shall be deemed noncompetitive as long as those components are provided in a bundled transaction under R14-2-1606(A).
 42. "Stranded Cost" includes:
 - a. The verifiable net difference between:
 - i. The net original cost of all the prudent jurisdictional assets and obligations necessary to furnish electricity (such as generating plants, purchased power contracts, fuel contracts, and regulatory assets), acquired or entered into prior to January 1, 2020, under traditional regulation of Affected Utilities; and
 - ii. The market value of those assets and obligations evidenced by the divestiture of those assets and obligations to an independent entity that is entirely unrelated to the Affected Utility.
 - b. Reasonable costs necessarily incurred by an Affected Utility to effectuate divestiture of its generation assets;
 - c. Reasonable employee severance and retraining costs necessitated by electric competition, where not otherwise provided; and
 - d. Other transition and restructuring costs as approved by the Commission as part of the Affected Utility's Stranded Cost determination under R14-2-1607.
 43. "System Benefits" means Commission-approved utility low income, demand side management, Consumer Education, environmental, renewables, long-term public benefit research and development, and nuclear fuel disposal and nuclear power plant decommissioning programs.
 44. "Transmission Primary Voltage" is voltage above 25 kV as it relates to metering transformers.
 45. "Transmission Service" refers to the transmission of electricity to retail electric customers or to electric distribution facilities and that is so classified by the Federal Energy Regulatory Commission or, to the extent permitted by law, so classified by the Commission.
 46. "Unbundled Service" means electric service elements provided and priced separately, including, but not limited to, such service elements as generation, transmission, distribution,

Must Run Generation, metering, meter reading, billing and collection, and ancillary services. Unbundled Service may be sold to consumers or to other Electric Service Providers.

47. "Universal Node Identifier" is a unique, permanent, identification number assigned to each service delivery point. (SAME AS METER NUMBER???)
48. "Utility Distribution Company" (UDC) means the electric utility entity regulated by the Commission that operates, constructs, and maintains the distribution system for the delivery of power to the end user point of delivery on the distribution system.
49. "Utility Industry Group" (UIG) refers to a utility industry association that establishes national standards for data formats.

R14-2-1602. Commencement of Competition

- A. An Affected Utility's Eligible Customers will be eligible for competitive electric services, subject to the Competitive Transition requirements in R14-2-1604, on the date set by Commission Order in each Affected Utility's Stranded Cost and Unbundled Tariff proceeding.
- B. An Affected Utility's competitive electric affiliates or an affiliate of which it is a member shall not be permitted to offer Competitive Services in any other Affected Utility's service territory until the Commission has ordered the service area of the potential competitor's affiliated Affected Utility opened to competition.

R14-2-1603. Certificates of Convenience and Necessity

- A. Any Electric Service Provider intending to supply Competitive Services shall obtain a Certificate of Convenience and Necessity from the Commission pursuant to this Article. An Affected Utility need not apply for a Certificate of Convenience and Necessity to continue to provide electric service in its service area during the transition period set forth in R14-2-1604. All other Affected Utility affiliates created in compliance with R14-2-1615(A) shall be required to apply for appropriate Certificates of Convenience and Necessity.
- B. Any company desiring such a Certificate of Convenience and Necessity shall file with the Docket Control Center the required number of copies of an application. In support of the request for a Certificate of Convenience and Necessity, the following information must be provided:
 1. A description of the electric services that the applicant intends to offer;
 2. The proper name and correct address of the applicant, and
 - a. The full name of the owner if a sole proprietorship,
 - b. The full name of each partner if a partnership,
 - c. A full list of officers and directors if a corporation, or
 - d. A full list of the members if a limited liability corporation;
 3. A tariff for each service to be provided that states the minimum and maximum rate and terms and conditions that will apply to the provision of the service;
 4. A description of the applicant's technical ability to obtain and deliver electricity if appropriate and to provide any other proposed services;
 5. Documentation of the financial capability of the applicant to provide the proposed services, including the most recent income statement and balance sheet, the most recent

- projected income statement, and other pertinent financial information. Audited information shall be provided if available;
6. A description of the form of ownership (for example, partnership, corporation);
 7. For an applicant that is an affiliate of an Affected Utility, a statement of whether the Affected Utility has complied with the requirements of R14-2-1616, including the Commission Decision approving the Code of Conduct, where applicable; and
 8. Such other information as the Commission or the staff may request.
- C. The applicant shall report in a timely manner during the application process any changes in the information initially reported to the Commission in the application for a Certificate of Convenience and Necessity.
- D. The applicant shall provide public notice of the application as required by the Commission.
- E. At the time of filing for a Certificate of Convenience and Necessity, each applicant shall notify the Affected Utilities, Utility Distribution Companies, or any electric utility not subject to the jurisdiction of the Arizona Corporation Commission in whose service territories it wishes to offer service by providing a copy of the application to the Affected Utilities, Utility Distribution Companies, and the electric utilities not subject to the jurisdiction of the Arizona Corporation Commission. No later than 10 days after application is filed, each applicant shall provide written notice to the Commission, through Docket Control, that it has provided notification to each of the respective Affected Utilities, Utility Distribution Companies, and electric utilities not subject to the jurisdiction of the Arizona Corporation Commission. The attachment to the CC&N application should include a listing of the names and addresses of the notified Affected Utilities, Utility Distribution Companies and electric utilities not subject to the jurisdiction of the Arizona Corporation Commission.
- F. The Commission may issue a Certificate of Convenience and Necessity that is effective for a specified period of time if the applicant has limited or no experience in providing the retail electric service that is being requested. An applicant receiving such approval shall have the responsibility to apply for appropriate extensions.
- G. The Commission may deny certification to any applicant who:
1. Does not provide the information required by this Article;
 2. Does not possess adequate technical or financial capabilities to provide the proposed services;
 3. Seeks certification as a Load-Serving Entity and does not have an Electric Service Provider Service Acquisition Agreement with a Utility Distribution Company and Scheduling Coordinator, if the applicant is not its own Scheduling Coordinator;
 4. Fails to provide a performance bond, if required;
 5. Fails to demonstrate that its certification will serve the public interest; or
 6. Seeks certification as a Load-Serving Entity and fails to submit an executed Service Acquisition Agreement with a Utility Distribution Company or a Scheduling Coordinator for approval by the Utilities Division Director, prior to the offering of service to potential customers. Agreements are to be filed with the Compliance Section, Utilities Division.
- H. A Request for approval of an executed Service Acquisition Agreement may be included with an application for a Certificate of Convenience and Necessity. In all negotiations relative to Service Acquisition Agreements, Affected Utilities or their successor entities are required to negotiate in good faith.

- I. Every Electric Service Provider obtaining a Certificate of Convenience and Necessity under this Article shall obtain certification subject to the following conditions:
 - 1. The Electric Service Provider shall comply with all Commission rules, orders, and other requirements relevant to the provision of electric service;
 - 2. The Electric Service Provider shall maintain accounts and records as required by the Commission;
 - 3. The Electric Service Provider shall file with the Utilities Division Director, through the Compliance Section, all financial and other reports that the Commission may require and in a form and at such times as the Commission may designate;
 - 4. The Electric Service Provider shall maintain on file with the Commission all current tariffs and any service standards that the Commission shall require;
 - 5. The Electric Service Provider shall cooperate with any Commission investigation of customer complaints;
 - 6. The Electric Service Provider shall obtain all necessary permits and licenses, including relevant tax licenses;
 - 7. The Electric Service Provider shall comply with all disclosure requirements pursuant to R14-2-1617; and
 - 8. Failure to comply with any of the above conditions may result in rescission of the Electric Service Provider's Certificate of Convenience and Necessity.
- J. In appropriate circumstances, the Commission may require, as a precondition to certification, the procurement of a performance bond sufficient to cover any advances or deposits the applicant may collect from its customers, or order that such advances or deposits be held in escrow or trust. The performance bond amount may be increased by the Commission, after a hearing, based on the performance at the Electric Service Provider.
- K. Time-frames for processing applications for Certificates of Convenience and Necessity
 - 1. This rule prescribes time-frames for the processing of any application for a Certificate of Convenience and Necessity issued by the Arizona Corporation Commission pursuant to this Article. These time-frames shall apply to applications filed on or after the effective date of this rule.
 - 2. Within 120 calendar days after receipt of an application for a new Certificate of Convenience and Necessity, or to amend or change the status of any existing Certificate of Convenience and Necessity, staff shall notify the applicant, in writing, that the application is either administratively complete or deficient. If the application is deficient, the notice shall specify all deficiencies.
 - 3. Staff may terminate an application if the applicant does not remedy all deficiencies within 60 calendar days of the notice of deficiency.
 - 4. After receipt of a corrected application, staff shall notify the applicant within 90 calendar days if the corrected application is either administratively complete or deficient. The time-frame for administrative completeness review shall be suspended from the time the notice of deficiency is issued until staff determines that the application is complete.
 - 5. Within 180 calendar days after an application is deemed administratively complete, the Commission shall approve or reject the application.
 - 6. For purposes of A.R.S. § 41-1072, et seq., the Commission has established the following time-frames:
 - a. Administrative completeness review time-frame: 120 calendar days;

- b. Substantive review time-frame: 180 calendar days;
- c. Overall time-frame: 300 calendar days.
- 7. If an applicant requests, and is granted, an extension or continuance, the appropriate time-frames shall be tolled from the date of the request during the duration of the extension or continuance.
- 8. During the substantive review time-frame, the Commission may, upon its own motion or that of any interested party to the proceeding, for good cause shown, request a suspension of the time-frame rules.

R14-2-1604. Energy Choice Implementation

- A. Within 60 days of the effective date of these rules, the Commission shall begin reviewing applications for Certificates of Convenience and Necessity from Electric Service Providers. The Commission shall also schedule and commence each Affected Utilities Stranded Cost and Unbundled Tariff proceeding.
- B. Within one year from the effective date of these rules, all Eligible Customers of Affected Utilities may begin taking service from their choice of a Commission certificated Electric Service Provider.
- C. Affected Utilities may offer only Standard Offer Service.
- D. Within 90 days of the effective date of these rules, all Affected Utilities shall notify all their customers of these rules. The notification shall be in a form and manner approved by the Commission.
- E. An Electric Service Provider that is an affiliate of an Affected Utility shall be subject to offering only the Standard Offer Service of its affiliated Affected Utility within the first two years of the effective date of these rules.
- F. Cooperatives
 - 1. An Affected Utility organized as Cooperative is presumed to be subject to competition, unless fifty percent of the members of the Cooperative vote to maintain their current service.
 - 2. Cooperatives will retain the ability to elect to enter competition at any time by a vote of their members.

R14-2-1605. Competitive Services

Competitive Services as defined in 2-1601(8) shall require a Certificate of Convenience and Necessity and a tariff as described in R14-2-1603. A properly certificated Electric Service Provider may offer Competitive Services under bilateral or multilateral contracts with retail consumers.

R14-2-1606. Services Required to be Made Available

- A. On the date its service area is open to competition under R14- 2-1602, each Affected Utility or Utility Distribution Company shall make available Standard Offer and Noncompetitive Services at regulated rates and shall serve as the Provider of Last Resort. On this date, the Affected Utility's then approved rates will be considered its Standard Offer rates.
- B. Within one year from the effective date of these rules, power purchased by an Affected Utility for Standard Offer Service shall be acquired from the competitive market through prudent, arm's length transactions, with at least fifty percent through a competitive bid

process; by 2030, 100 percent shall be purchased from the competitive market.

C. Standard Offer Tariffs:

1. By [Date TBD], or pursuant to Commission Order, whichever occurs first, each Affected Utility shall file proposed tariffs to provide Standard Offer Service. Such rates shall not become effective until approved by the Commission. Any rate increase proposed by an Affected Utility for Standard Offer Service must be fully justified through a rate case proceeding.
 2. Standard Offer Service tariffs shall include the following elements, each of which shall be clearly unbundled and identified in the filed tariffs:
 - a. Competitive Services:
 - i. Generation, which shall include all transaction costs and line losses;
 - ii. Competition Transition Charge, which shall include recovery of generation related regulatory assets;
 - iii. Generation-related billing and collection;
 - iv. Transmission Services; and
 - v. Optional Ancillary Services, which shall include spinning reserve service, supplemental reserve, regulation, and frequency response service, and energy imbalance service.
 - b. Non-Competitive Services:
 - i. Distribution Services;
 - ii. Metering Services;
 - iii. Meter Reading Services;
 - iv. Required Ancillary Services, which shall include scheduling, system control and dispatch service, and reactive supply and voltage control from generation sources service;
 - v. Must-Run Generation Units;
 - vi. System Benefit Charges; and
 - vii. Distribution-related billing and collection.
 3. Affected Utilities may file proposed revisions to such rates with the Commission through Docket Control. Any rate increase proposed by an Affected Utility for Standard Offer Service must be fully justified through a rate case proceeding, which may be expedited at the discretion of the Utilities Division Director.
 4. Such rates shall reflect the costs of providing the service.
 5. Consumers receiving Standard Offer Service are eligible for potential future rate reduction as authorized by the Commission.
 6. After [Date TBD], tariffs for Standard Offer Service shall not include any special discounts or contracts with terms, or any tariff that prevents the customer from accessing a competitive option, other than time-of-use rates, interruptible rates, or self-generation deferral rates.
- D. To manage its risks, an Affected Utility or Electric Service Provider may include in its tariffs deposit requirements and advance payment requirements for Unbundled Services.
- E. Affected Utilities and Utility Distribution Companies must accept power and energy delivered to their distribution systems by other Load-Serving Entities and offer distribution and distribution-related ancillary services comparable to services they provide to themselves at their Noncompetitive Services tariffed rates.
- F. Customer Data:

1. Upon written authorization by the customer, a Load-Serving Entity shall release in a timely and useful manner that customer's billing data, including consumption, demand, and power factor (if available), for the most recent 12-month period to a customer-specified, properly certificated Electric Service Provider.
 2. The Electric Service Provider requesting such customer data shall provide an accurate account number for the customer.
 3. The form of data shall be mutually agreed upon by the parties and such data shall not be unreasonably withheld.
 4. Utility Distribution Companies shall be allowed access to the Meter Reading Service Provider server for customers served by the Utility Distribution Company's distribution system.
- G. Rates for Unbundled Services:**
1. The Commission shall review and approve rates for Competitive Services and Noncompetitive Services subject to Commission jurisdiction, before such services can be offered.
 2. Such rates shall reflect the costs of providing the services.
 3. Such rates may be downwardly flexible if approved by the Commission.
- H. Electric Service Providers offering Competitive Services under this Article shall provide adequate supporting documentation for their proposed rates. Where rates are approved by another jurisdiction, such as the Federal Energy Regulatory Commission, those rates shall be provided as part of the supporting documentation.**

R14-2-1607. Recovery of Stranded Cost of Affected Utilities

- A.** The Commission shall allow a reasonable opportunity for recovery of unmitigated Stranded Cost by Affected Utilities. However, The Commission recognizes a rebuttable presumption that Affected Utilities are not owed stranded costs due to a transition to competition.
- B.** The Affected Utilities shall take every reasonable, cost-effective measure to mitigate or offset Stranded Cost by reducing costs, expanding wholesale or retail markets, or offering a wider scope of permitted regulated utility services for profit, among others.
- C.** The Commission will consider recovery of stranded costs for particular assets and obligations provided that the Affected Utility elects to divest the asset or obligation. If the Affected Utility elects to retain the particular assets or obligations, the Commission will assume the Affected Utility is not owed any stranded costs.
- D.** The Commission will consider recovery of stranded costs for assets and obligations provided that the divestiture of those assets and obligations are the result of arm's length market-based transactions with independent entities that are entirely unrelated to the Affected Utility.
- E.** The Affected Utilities shall file estimates of unmitigated Stranded Cost no later than one year after the effective date of these rules. Such estimates shall be fully supported by analyses and by records of market transactions undertaken by willing buyers and willing sellers.
- F.** An Affected Utility shall request Commission approval of distribution charges or other means of recovering unmitigated Stranded Cost no later than two years after the effective date of these rules. The filing may include a discounted stranded cost exit methodology that a consumer may choose to use to determine an amount due the Affected Utility in

lieu of making monthly distribution charge or other payments.

- G. The Commission shall, after hearing and consideration of analyses and recommendations presented by the Affected Utilities, staff, and intervenors, determine for each Affected Utility the magnitude of Stranded Cost, and appropriate Stranded Cost recovery mechanisms and charges. In making its determination of mechanisms and charges, the Commission shall consider at least the following factors:
 - 1. The impact of Stranded Cost recovery on the effectiveness of competition;
 - 2. The impact of Stranded Cost recovery on customers of the Affected Utility who do not participate in the competitive market;
 - 3. The impact, if any, on the Affected Utility's ability to meet debt obligations;
 - 4. The impact of Stranded Cost recovery on prices paid by consumers who participate in the competitive market;
 - 5. The degree to which the Affected Utility has mitigated or offset Stranded Cost;
 - 6. The degree to which some assets have values in excess of their book values;
 - 7. Appropriate treatment of negative Stranded Cost;
 - 8. The time period over which such Stranded Cost charges may be recovered. The Commission shall limit the application of such charges to a specified time period; and
 - 9. The applicability of Stranded Cost to interruptible customers.
- H. A Competition Transition Charge (CTC) may be assessed on all retail customers based on the amount of generation purchased from any supplier. Any reduction in electricity purchases from an Affected Utility resulting from self-generation, demand side management, or other demand reduction attributable to any cause other than the retail access provisions of this Article shall not be used to calculate or recover any Stranded Cost from a consumer.
- I. Stranded Cost shall be recovered from customer classes in a manner consistent with the specific company's current rate treatment of the stranded asset, in order to effect a recovery of Stranded Cost that is in substantially the same proportion as the recovery of similar costs from customers or customer classes under current rates.
- J. The Commission may consider securitization as a financing method for recovery of Stranded Cost of the Affected Utility if the Commission finds that such method of financing will result in a lower cost alternative to customers.
- K. The Commission may, after notice and hearing, order regular revisions to estimates of the magnitude of Stranded Cost.

R14-2-1608. System Benefits Charges

- A. Each Affected Utility or Utility Distribution Company shall file for Commission review non-bypassable rates or related mechanisms to recover the applicable pro-rata costs of System Benefits from all consumers located in the Affected Utility's or Utility Distribution Company's service area. Affected Utilities or Utility Distribution Companies shall file for review of the Systems Benefits Charge at least every three years. The amount collected annually through the System Benefits charge shall be sufficient to fund the Affected Utilities' or Utility Distribution Companies' Commission-approved System Benefits. Filings shall be made with the Commission through Docket Control.
- B. Each Affected Utility or Utility Distribution Company shall provide adequate supporting documentation for its proposed rates for System Benefits.
- C. An Affected Utility or Utility Distribution Company shall recover the costs of System

Benefits only upon hearing and approval by the Commission of the recovery charge and mechanism.

R14-2-1609. Transmission and Distribution Access

- A. The Affected Utilities shall provide nondiscriminatory open access to transmission and distribution facilities to serve all customers. No preference or priority shall be given to any distribution customer based on whether the customer is purchasing power under the Affected Utility's Standard Offer or in the competitive market. Any transmission capacity that is reserved for use by retail customers of the Affected Utility shall be allocated among Standard Offer customers and competitive market customers on a pro-rata basis.
- B. Affected Utilities and Utility Distribution Companies shall retain the obligation to assure that adequate transmission import capability is available to meet the load requirements of all distribution customers within their service areas. Affected Utilities and Utility Distribution Companies shall retain the obligation to assure that adequate distribution system capacity is available to meet the load requirements of all distribution customers within their service areas.
- C. The Commission supports, but will not require, the development of a Federal Energy Regulatory Commission-approved Regional Transmission Organization (RTO), an Independent System Operator (ISO) or, absent a Regional Transmission Organization or an Independent System Operator, an Arizona Independent Scheduling Administrator.

R14-2-1610. In-state Reciprocity

- A. The service territories of Arizona electric utilities that are not Affected Utilities or Public Power Entities shall not be open to competition under the provisions of this Article, nor shall Arizona electric utilities which are not Affected Utilities be able to compete for sales in the service territories of the Affected Utilities.
- B. An Arizona electric utility, subject to the jurisdiction of the Commission, that is not an Affected Utility or a Public Power Entity may voluntarily participate under the provisions of this Article if it makes its service territory available for competing sellers, if it agrees to all of the requirements of this Article, and if it obtains an appropriate Certificate of Convenience and Necessity.
- C. An Arizona electric utility, not subject to the jurisdiction of the Commission, and that is not a Public Power Entity, may submit a statement to the Commission, through Docket Control, stating that it voluntarily opens its service territory for competing sellers in a manner similar to the provisions of this Article. Such statement shall be accompanied by the electric utility's nondiscriminatory electric supply tariffs, Unbundled Services rates, Stranded Cost charges, System Benefits charges, Distribution Services charges and any other applicable tariffs and policies for services the electric utility offers, for which these rules otherwise require compliance by Affected Utilities or Electric Service Providers. Such filings shall serve as authorization for such electric utility to utilize the Commission's Rules of Practice and Procedure and other applicable rules concerning any complaint that an Affected Utility or Electric Service Provider is violating any provision of this Article or is otherwise discriminating against the filing electric utility or failing to provide just and reasonable rates in tariffs filed under this Article.
- D. If an electric utility is an Arizona political subdivision or municipal corporation other than a Public Power Entity, then the existing service territory of such electric utility shall

be deemed open to competition if the political subdivision or municipality has entered into an intergovernmental agreement with the Commission that establishes nondiscriminatory terms and conditions for Distribution Services and other Unbundled Services, provides a procedure for complaints arising therefrom, and provides for reciprocity with Affected Utilities or their affiliates. The Commission shall conduct a hearing to consider any such intergovernmental agreement.

- E. An affiliate of an Arizona electric utility which is not an Affected Utility or a Public Power Entity shall not be allowed to compete in the service territories of Affected Utilities unless the affiliate's parent company, the nonaffected electric utility submits a statement to the Commission, through Docket Control, indicating that the parent company will voluntarily open its service territory for competing sellers in a manner similar to the provisions of this Article and the Commission makes a finding to that effect.

R14-2-1611. Rates

Each Electric Service Provider selling services under this Article shall have on file with the Commission tariffs describing such services, along with the minimum, current and maximum rates for those services, but the services may not be offered until the Commission has approved the tariffs.

- A. The Commission shall approve in each Electric Service Provider Tariff a maximum and minimum rate for those services.
- B. The Electric Service Provider's minimum rate for a service shall not be less than the marginal cost of providing that service.
- C. An Electric Service Provider may not alter its minimum or maximum rates, nor alter its terms and conditions for a service without Commission approval. Requests for such changes may be filed with the Commission through Docket Control.
- D. An Electric Service Provider's current rate for a service may not be increased or decreased without filing notice of such with the Commission at least 30 days prior to the effective date of the increase or decrease.
- E. The Commission shall determine the fair value of the company's property and take fair value into consideration when determining the appropriate maximum and minimum rate.
- F. In determining an appropriate maximum and minimum rate, the Commission shall consider all the costs to Electric Service Providers and general market conditions of providing electricity in the state.
- G. Prior to one year after the effective date of these rules, competitively negotiated contracts governed by this Article customized to individual customers which comply with approved tariffs do not require further Commission approval. However, all such contracts whose term is one year or more and for service of 1 MW or more must be filed with the Utilities Division Director, through the Compliance Section, as soon as practicable. If a contract does not comply with the provisions of the Load Serving Entity's approved tariffs, it shall not become effective without a Commission order. The provisions of such contracts shall be kept confidential by the Commission.
- H. Contracts entered into on or after one year following the effective date of these rules, which comply with approved tariffs need not be filed with the Utilities Division Director. If a contract does not comply with the provisions of the Load Serving Entity's approved tariffs, it shall not become effective without a Commission order.
- I. An Electric Service Provider holding a Certificate of Convenience and Necessity

pursuant to this Article may price its Competitive Services, at or below the maximum rates specified in its filed tariff, provided that the price is not less than the Electric Service Provider's minimum approved rate for providing the service.

- J. The Commission will consider and adjudicate challenges to prices charged by an Electric Service Provider even if the prices charged fall within previously approved maximum and minimum rates.
 - 1. A complaint may be made by the Commission on its own motion, or by any person or association of persons by complaint in writing.
 - 2. The Commission shall not consider the reasonableness of any rates or charges unless the complaint is signed by not less than ten customers.
 - 3. Upon filing of the complaint, the Commission shall set a hearing and shall serve a copy of the complaint upon the party complained of not less than ten days before the hearing.
 - 4. The complainant and the party complained of, and such persons as the Commission allows to intervene, shall be heard in person or by attorney, and may introduce evidence at the hearing. The Commission shall issue process to enforce attendance of all necessary witnesses.
 - 5. After the conclusion of the hearing, the Commission shall make and file an order containing its decision. The decision shall remain in force either for the period designated therein or until by further order of the Commission.

R14-2-1612. Customer Information

- A. Except as indicated elsewhere in this Article and in reference to residential service, R14-2-201 through R14-2-212, are adopted in this Article by reference. However, where the term "utility" is used in R14-2-201 through R14-2-212, the term "utility" shall pertain to Electric Service Providers providing the services described in each subsection of R14-2-201 through R14-2-212. R14-2-203(E) and R14-2-212(H) shall pertain only to Utility Distribution Companies.
- B. The following shall not apply to this Article:
 - 1. R14-2-212 (F)(1); and
 - 2. R14-2-208(F).
- C. No consumer shall be deemed to have changed providers of any service authorized in this Article (including changes from the Affected Utility to another provider) without written authorization by the consumer for service from the new provider. If a consumer is switched to a different ("new") provider without such written authorization, the new provider shall cause service by the previous provider to be resumed and the new provider shall bear all costs associated with switching the consumer back to the previous provider. A new provider who switches a customer without written authorization shall also refund to the retail electricity customer the entire amount of the customer's electricity charges attributable to the electric generation service from the new provider for twelve months, the period of the unauthorized service, or five thousand dollars (\$5,000), whichever is most. An Affected Utility may request the Commission's Consumer Services Section to review or audit written authorizations to assure a customer switch was properly authorized. A written authorization that is obtained by deceit or deceptive practices shall not be deemed a valid written authorization. Electric Service Providers shall submit reports within 30 days of the end of each calendar quarter to the Commission, through the

Compliance Section, Utilities Division, itemizing the direct complaints filed by customers who have had their Electric Service Providers changed without their authorization. Violations of the Commission's rules concerning unauthorized changes of providers may result in penalties, or suspension or revocation of the provider's Certificate of Convenience and Necessity. The following requirements and restrictions shall apply to the written authorization form requesting electric service from the new provider:

1. The authorization shall not contain any inducements;
 2. The authorization shall be in legible print with clear and plain language confirming the rates, terms, conditions, and nature of the service to be provided;
 3. The authorization shall not state or suggest that the customer must take action to retain the customer's current electricity supplier;
 4. The authorization shall be in the same language as any promotional or inducement materials provided to the retail electric customer; and
 5. No box or container may be used to collect entries for sweepstakes or a contest that, at the same time, is used to collect authorization by a retail electric customer to change the customer's electricity supplier or to subscribe to other services.
- D. Customer-specific information shall not be released without specific prior written customer authorization unless the information is requested by a law enforcement or other public agency, or is requested by the Commission or its Staff, or is reasonably required for legitimate account collection activities, or is necessary to provide safe and reliable service to the customer.
- E. Each Electric Service Provider providing service governed by this Article shall be responsible for meeting applicable reliability standards and shall work cooperatively with other companies with whom it has interconnections, directly or indirectly, to ensure safe, reliable electric service. Affected Utilities shall make reasonable efforts to notify customers of scheduled outages and also provide notification to the Commission.
- F. Each Electric Service Provider shall provide at least 65 calendar days' written notice to all of its affected consumers of its intent to cease providing generation, transmission, distribution, or ancillary services necessitating that the consumer obtain service from another supplier of generation, transmission, distribution, or ancillary services.
- G. All Electric Service Providers rendering service under this Article shall submit accident reports, through the Compliance Section, as required in R14-2-101.
- H. An Electric Service Provider providing firm electric service governed by this Article shall make reasonable efforts to reestablish service within the shortest possible time when service interruptions occur and shall work cooperatively with other companies to ensure timely restoration of service where facilities are not under the control of the Electric Service Provider.
- I. Electric Service Providers shall give at least ten calendar days' notice to their customer of scheduled return to Standard Offer Service. Electric Service Providers shall provide 15 calendar days' notice prior to the next scheduled meter read date to the appropriate Provider of Last Resort regarding the intent to terminate a service agreement. Return of that customer to Standard Offer Service will be at the next regular billing cycle if appropriate metering equipment is in place and the request is provided 15 calendar days prior to the next regular meter read date. Responsibility for charges incurred between the notice and the next scheduled read date shall rest with the Electric Service Provider.
- J. Each Electric Service Provider shall ensure that bills rendered on its behalf include its

address and the toll-free telephone numbers for billing, service, and safety inquiries. The bill must also include the address and toll-free telephone numbers for the Phoenix and Tucson Consumer Service Sections of the Arizona Corporation Commission Utilities Division. Each Electric Service Provider shall ensure that billing and collections services rendered on its behalf comply with subsection (A).

1. Any person or entity relying on metering information provided by an Affected Utility may request a meter test according to the tariff on file and approved by the Commission. However, if the meter is found to be in error by more than 3 percent, no meter testing fee will be charged.
2. The Meter Number assigned by the Affected Utility or Utility Distribution Company whose distribution system serves the customer, shall be used to identify each competitive point of delivery.
3. Unless the Commission grants a specific waiver, all metered and billing data shall be translated into consistent, statewide formats, approved by the Utilities Division Director, that shall be used by the Affected Utility and the Electric Service Provider.
4. Unless the Commission grants a specific waiver, the standardized data exchange formats approved by the Utilities Division Director, shall be used for all data exchange transactions from the Meter Reading Service Provider to the Electric Service Provider, Affected Utility and Schedule Coordinator. This data will be transferred via the Internet using a secure sockets layer or other secure electronic media.
5. Minimum metering requirements for competitive customers over 100 kW should consist of hourly consumption measurement meters or meter systems. Predictable loads will be permitted to use load profiles to satisfy the requirements for hourly consumption data. The Load-Serving Entity developing the load profile shall determine if a load is predictable.
6. Competitive customers with hourly loads of 400 kW or less will be permitted to use Load Profiling to satisfy the requirements for hourly consumption data.
7. Metering equipment ownership will be limited to the Provider of Last Resort.
8. Maintenance and servicing of the metering equipment (including Current Transformers and Potential Transformers) will be limited to the Affected Utility or Utility Distribution Company.
9. Distribution primary voltage Current Transformers and Potential Transformers may be owned by the Affected Utility or the Utility Distribution Company.
10. Transmission primary voltage Current Transformers and Potential Transformers may be owned by the Affected Utility or the Utility Distribution Company.
11. North American Electric Reliability Council-recognized holidays will be used in calculating "working days" for meter data timeliness requirements. If a holiday officially occurs on a Saturday, the preceding Friday will be recognized as the date of the holiday. If a holiday officially occurs on a Sunday, the following Monday will be recognized as the date of the holiday.
12. The Utilities Division Director shall approve operating procedures to be used by the Meter Service Providers for performing work on metered customers.
13. The Utilities Division Director shall approve operating procedures to be used by the Meter Reading Service Provider for validating, editing, and estimating metering data.
14. The Utilities Division Director shall approve performance metering specifications and standards to be used by all entities performing metering.

- K. Electric Service Providers shall comply with applicable reliability standards and practices established by the Western Systems Coordinating Council and the North American Electric Reliability Council or successor organizations.
- L. Electric Service Providers shall provide notification and informational materials to consumers about competition and consumer choices, such as a standardized description of services, as ordered by the Commission.
- M. Billing Elements. After the commencement of competition within a service territory pursuant to R14-2-1602, all customer bills, including bills for Standard Offer Service customers within that service territory, will list, at a minimum, the following billing cost elements:
 - 1. Competitive Services:
 - a. Generation, which shall include generation-related billing and collection;
 - b. Competition Transition Charge; and
 - c. Transmission and Ancillary Services.
 - 2. Non-Competitive Services:
 - a. Distribution services, including distribution-related billing and collection, required Ancillary Services and Must-Run Generating Units;
 - b. System Benefit Charges;
 - c. Metering Services; and
 - d. Meter Reading Services.
 - 3. Regulatory assessments.
 - 4. Applicable taxes.
 - 5. In cases where the Incumbent or Affected Utility and the Electric Service Provider provide separate bills to customers, the Electric Service Provider is not required to list the billing cost elements for non-competitive services. In cases where the Incumbent Utility and the Electric Service Provider provide separate bills to customers, the Incumbent or Affected Utility is not required to list the billing cost elements for competitive services if the customer is obtaining competitive services from an Electric Service Provider.
- N. The operating procedures approved by the Utilities Division Director will be used for Direct Access Service Requests as well as other billing and collection transactions.

R14-2-1613 Provider of Last Resort

- A. The purpose of this section is to establish the requirement for Provider of Last Resort service and ensure that it is available to any requesting retail customer and any retail customer who is transferred from an Electric Service Provider because the customer's Electric Service Provider failed to provide service to the customer or failed to meet its obligations.
- B. The provisions of this section apply only to areas open to competition where customers are served by Electric Service Providers.
- C. A Provider of Last Resort shall offer a basic, standard retail service package to customers it is designated to serve, which shall be limited to:
 - 1. Basic firm service; and
 - 2. Call center facilities available for customer inquiries.
- D. Provider of Last Resort service selection process:
 - 1. All ESPs shall provide information to the Commission in accordance with this section.

- Based on this information, the Commission may designate Electric Service Providers that are eligible to serve as Providers of Last Resort in areas of the state in which customer choice is in effect. The Commission's determination regarding eligibility of an ESP to serve as Provider of Last Resort under the provisions of this section shall not be considered confidential information.
2. Eligibility to be designated as a Provider of Last Resort is specific to each Provider of Last Resort area and customer class. An Electric Service Provider is eligible to be designated a Provider of Last Resort for a particular customer class in a Provider of Last Resort area, unless:
 - a. A proceeding to revoke or suspend the Electric Service Provider's Certificate of Convenience and Necessity is pending at the Commission, the Electric Service Provider's Certificate of Convenience and Necessity has been suspended or revoked by the Commission, or the Electric Service Provider's Certificate of Convenience and Necessity is deemed suspended;
 - b. The Electric Service Provider has not served customers in Arizona for at least 18 months;
 - c. The Electric Service Provider does not serve the applicable customer class;
 - d. The Electric Service Provider does not meet minimum financial, technical and managerial qualifications established by the Commission of this title; or
 - e. Any other reason the Commission does not reasonably expect the Electric Service Provider to not be able to meet the functions of a Provider of Last Resort.
 3. The Commission shall publish the names of all of the Electric Service Providers eligible to serve as a Provider of Last Resort under this section for each customer class in each Provider of Last Resort area and shall provide notice to Electric Service Providers determined to be eligible to serve as a Provider of Last Resort.
 4. A standard form shall be created by the Commission for Electric Service Providers to use in filing information concerning their eligibility to serve as a Provider of Last Resort.
- E. An Affected Utility shall automatically become a Provider of Last Resort within its certificated area on the effective date of these rules if the Affected Utility's certificated area is open to competition, unless the Commission issues an order stating otherwise.
- F. A Provider of Last Resort shall abide by the applicable customer protection rules as provided in these rules.
- G. The Commission shall post the names of Providers of Last Resort on its webpage, including the area of the State for which each Provider of Last Resort is eligible to serve and the customers classes it is eligible to serve.
- H. A Provider of Last Resort shall provide service to customers using a market-based, month-to-month product. The Provider of Last Resort shall use the same market-based, month-to-month product for all customers in a mass transition that are in the same class and Provider of Last Resort area.

R14-2-1614. Reporting Requirements

- A. Reports covering the following items, as applicable, shall be submitted to the Utilities Division Director, through the Compliance Section, by Affected Utilities or Utility Distribution Companies and all Electric Service Providers granted a Certificate of Convenience and Necessity pursuant to this Article. These reports shall include the

following information pertaining to competitive service offerings, and Unbundled Services in Arizona:

1. Types of services offered;
2. kW and kWh sales to consumers, disaggregated by customer class (for example, residential, commercial, industrial, community choice aggregation);
3. Revenues from sales by customer class (for example, residential, commercial, industrial, community choice aggregation);
4. Number of retail customers disaggregated by customer class (for example, residential, commercial, industrial, community choice aggregation);
5. Retail kWh sales and revenues disaggregated by term of the contract (less than one year, one to four years, longer than four years), and by type of service (for example, firm, interruptible, other);
6. Amount of revenues from each type of Competitive Service and, if applicable, each type of Noncompetitive Service provided (using breakdown from R14-2-1612(M));
7. Value of all assets used to serve Arizona customers and accumulated depreciation;
8. Tabulation of Arizona electric generation plants owned by the Electric Service Provider broken down by generation technology, fuel type, and generation capacity;
9. The number of customers aggregated and the amount of aggregated load; and
10. Other data requested by staff or the Commission.

B. Reporting Schedule

1. For the period through December 31, 2025, semi-annual reports shall be filed by April 15 (covering the previous period of July through December) and October 15 (covering the previous period of January through June). The first such report shall cover the period January 1 through June 30, 2021.
2. For the period after December 31, 2025, annual reports shall be filed by April 15 (covering the previous period of January through December). The first such report shall cover the period January 1 through December 31, 2026.

C. The information listed above may, at the provider's option, be provided on a confidential basis. However, staff or the Commission may issue reports with aggregate statistics based on confidential information that do not disclose data pertaining to a particular seller or purchases by a particular buyer.

D. Any Electric Service Provider, Affected Utility, or Utility Distribution Company governed by this Article which fails to file the above data in a timely manner may be subject to a penalty imposed by the Commission or may have its Certificate of Convenience and Necessity rescinded by the Commission.

E. Any Electric Service Provider holding a Certificate of Convenience and Necessity pursuant to this Article shall file a request in Docket Control to discontinue any competitive tariff at least 90 days before the service will be discontinued. Such service may not be discontinued without Commission approval.

F. In addition to the above reporting requirements, Electric Service Providers, Affected Utilities, and Utility Distribution Companies governed by this Article shall participate in Commission workshops or other forums whose purpose is to evaluate competition or assess market issues.

R14-2-1615. Administrative Requirements

A. Any Electric Service Provider certificated under this Article may file with the

Commission, through Docket Control, proposed additional tariffs for Competitive Services at any time which include a description of the service, minimum rates, maximum rates, terms, and conditions.

- B. Contracts filed pursuant to this Article shall not be open to public inspection or made public except on order of the Commission, or by the Commission or a Commissioner in the course of a hearing or proceeding.
- C. The Commission may consider variations or exemptions from the terms or requirements of any of the rules in this Article upon the application of an affected party. The application must set forth the reasons why the public interest will be served by the variation or exemption from the Commission rules and regulations. Any variation or exemption granted shall require an order of the Commission. Where a conflict exists between these rules and an approved tariff or order of the Commission, the provisions of the approved tariff or order of the Commission shall apply.
- D. The Commission may develop procedures for resolving disputes regarding implementation of retail electric competition.
- E. Prior to December 31, 2021, the Utilities Division Director shall implement a Consumer Education Program as approved by the Commission.

R14-2-1616. Separation of Monopoly and Competitive Services

- A. These rules do not preclude an Affected Utility or Utility Distribution Company from billing its own customers for distribution service, or from providing billing services to Electric Service Providers in conjunction with its own billing, or from providing Meter Services and Meter Reading Services for Load Profiled residential customers.
- B. These rules do not preclude an Affected Utility or Utility Distribution Company from owning generation facilities, distribution and transmission primary voltage Current Transformers and Potential Transformers.
- C. If an Affected Utility chooses to transfer its competitive generation assets or competitive services to a competitive electric affiliate, such transfer shall be at a value determined by the Commission to be fair and reasonable.
- D. An Electric Distribution Cooperative is not subject to the provisions of R14-2-1615 unless it offers competitive electric services outside of its distribution service territory.

R14-2-1617. Clean Energy Standard

- A. Any Load-Serving Entity selling electricity or aggregating customers for the purpose of selling electricity under the provisions of this Article must comply with the Commission's Clean Energy Rules set in **R14-2-####** unless otherwise ordered by the Commission.

R14-2-1618. Competitive Safeguards

- A. The purpose of these competitive safeguards is to assure the provision of direct access on equal and nondiscriminatory terms to all customers and generation suppliers, prevent discrimination in rates, terms or conditions of service by electric distribution companies, prevent the cross subsidization of service amongst customers, customer classes or between related electric distribution companies and electric generation suppliers, to forbid unfair or deceptive practices by electric generation companies and electric

- generation suppliers, and to establish and maintain an effective and vibrant competitive market in the purchase and sale of retail electric energy in this State.
- B.** If not previously filed, no later than 90 days after the effective date of these Rules, each Affected Utility which plans to offer Non-competitive Services and which plans to offer Competitive Services through its competitive electric affiliate shall propose a Code of Conduct to prevent anti-competitive activities. Each Affected Utility that is an electric cooperative, that plans to offer Noncompetitive Services, and that is a member of any electric cooperative that plans to offer Competitive Services shall also submit a Code of Conduct to prevent anti-competitive activities. All Codes of Conduct shall be filed in Docket Control and be subject to Commission approval after a hearing.
- C.** The Code of Conduct shall address the following subjects:
1. Appropriate procedures to prevent cross subsidization between the Affected Utility and any competitive affiliates, including but not limited to the maintenance of separate books, records, and accounts;
 2. Appropriate procedures to ensure that the Affected Utility's competitive affiliate does not have access to confidential utility information that is not also available to other market participants;
 3. Appropriate guidelines to limit the joint employment of personnel by both an Affected Utility and its competitive affiliate;
 4. Appropriate guidelines to govern the use of the Affected Utility's name or logo by the Affected Utility's competitive affiliate;
 5. Appropriate procedures to ensure that the Affected Utility does not give its competitive affiliate any preferential treatment such that other market participants are unfairly disadvantaged or discriminated against;
 6. Appropriate policies to eliminate joint advertising, joint marketing, or joint sales by an Affected Utility and its competitive affiliate;
 7. Appropriate procedures to govern transactions between an Affected Utility and its competitive affiliate;
 8. Appropriate policies to prevent the Affected Utility and its competitive affiliate from representing that customers will receive better service as a result of the affiliation; and
 9. Complaints concerning violations of the Code of Conduct shall be processed under the procedures established in R14-2-212.
- D.** The Code of conduct will affirm that Affected Utilities, Electric Service Providers and Utility Distribution Companies shall comply with the following requirements:
1. An Affected Utility or Utility Distribution Company may not give an Electric Service Provider, including without limitation, its affiliate or division, any preference or advantage over any other Electric Service Provider in processing a request by an Affected Utility or Utility Distribution Company customer for retail generation supply service.
 2. Subject to customer privacy or confidentiality constraints, a Utility Distribution Company may not give an electric generation supplier, including without limitation its affiliate or division, any preference or advantage in the dissemination or disclosure of customer information and any dissemination or disclosure shall occur at the same time and in an equal and nondiscriminatory manner. "Customer information" means all information pertaining to retail electric customer identity and current and future retail electric customer usage patterns, including appliance usage patterns, service

- requirements or service facilities.
3. An Affected Utility, Utility Distribution Company or Electric Service Provider may not engage in false or deceptive advertising to customers with respect to the retail supply of electricity in this State.
 4. Each Affected Utility and Utility Distribution Company shall adopt the following dispute resolution procedures to address alleged violations of this section:
 - a. Regarding any dispute between an Affected Utility, Utility Distribution Company or a related supplier, or all three, and an electric generation supplier (each individually referred to as a “party” and collectively referred to as “parties”), alleging a violation of any of the provisions of this section, the electric generation supplier shall provide the Affected Utility, Utility Distribution Company or related supplier, or all three, as applicable, a written notice of dispute which includes the names of the parties and customers, if any, involved and a brief description of the matters in dispute.
 - b. Within 5 days of receipt of the notice by the Affected Utility, Utility Distribution Company or a related supplier, or all three, a designated senior representative of each of the parties shall attempt to resolve the dispute on an informal basis.
 - c. If the designated representatives are unable to resolve the dispute by mutual agreement within 30 days of the referral, the dispute shall be referred for mediation through the Commission. A party may request mediation prior to that time if it appears that informal resolution is not productive.
 - d. If mediation is not successful, the matter shall be converted to a formal proceeding before a Commission administrative law judge, and the prosecuting parties shall be directed to file a formal pleading in the nature of a complaint, petition or other appropriate pleading with the Commission within 30 days or the matter will be dismissed for lack of prosecution. Any party may file a complaint, petition or other appropriate pleading concerning the dispute under any relevant provision of the Arizona Administrative Code.
 5. An Affected Utility or Utility Distribution Company may not illegally tie the provision of any electric distribution service within the jurisdiction of the Commission to one of the following:
 - a. The purchase, lease or use of any other goods or services offered by the Affected Utility, Utility Distribution Company or its affiliates.
 - b. A direct or indirect commitment not to deal with any competing Electric Service Provider.
 6. An Affected Utility or Utility Distribution Company may not provide any preference or advantage to any Electric Service Provider in the disclosure of information about operational status and availability of the distribution system.
 7. An Affected Utility or Utility Distribution Company shall supply all regulated services and apply tariffs to nonaffiliated Electric Service Providers in the same manner as it does for itself and its affiliated Electric Service Provider, and shall uniformly supply all regulated services and apply its tariff provisions in a nondiscriminatory manner.
 8. Every Affected Utility and Utility Distribution Company and its affiliated Electric Service Provider shall formally adopt and implement these provisions as company policy and shall take appropriate steps to train and instruct its employees in their

content and application.

9. If an Affected Utility or Utility Distribution Company customer requests information about Electric Service Providers, the Affected Utility or Utility Distribution Company shall provide the latest list as compiled by the Commission to the customer over the telephone, or in written form or by other equal and nondiscriminatory means. In addition, an Affected Utility or Utility Distribution Company may provide the address and telephone number of an Electric Service Provider if specifically requested by the customer by name. To enable Affected Utilities and Utility Distribution Companies to fulfill this obligation, the Commission will maintain a written list of certificated Electric Service Providers. The Commission will regularly update this list and provide the updates to Affected Utilities and Utility Distribution Companies as soon as reasonably practicable. The Commission will compile the list in a manner that is fair to all Electric Service Provider and that is not designed to provide any particular Electric Service Provider with a competitive advantage.
10. An Affected Utility, Utility Distribution Company or its affiliate may not state or imply that any delivery services provided to an affiliate or division or customer of either are inherently superior, solely on the basis of their affiliation with the Affected Utility or Utility Distribution Company, to those provided to any other Electric Service Provider or customer or that the Affected Utility's or Utility Distribution Company's delivery services are enhanced should supply services be procured from its affiliate.
11. An Affected Utility or Utility Distribution Company with an affiliated Electric Service Provider will adopt appropriate procedures to prevent cross subsidization between the Affected Utility or Utility Distribution Company and any competitive affiliates, including but not limited to the maintenance of separate books, records, and accounts.
12. An Affected Utility or Utility Distribution Company with an affiliated Electric Service Provider shall adopt appropriate procedures to limit the joint employment of personnel by both the Affected Utility or Utility Distribution Company and its competitive affiliate.
13. An Affected Utility or Utility Distribution Company with an affiliated Electric Service Provider will adopt appropriate procedures to govern the use of the Affected Utility's or Utility Distribution Company's name or logo by the affiliated Electric Service Provider.
14. An Affected Utility or Utility Distribution Company with an affiliated Electric Service Provider will adopt appropriate procedures to eliminate joint advertising, joint marketing, or joint sales by the Affected Utility or Utility Distribution Company and its competitive affiliate.
15. An Affected Utility or Utility Distribution Company with an affiliated Electric Service Provider will adopt appropriate procedures to govern transactions between the Affected Utility and Utility Distribution Company and its competitive affiliate.

R14-2-1619. Disclosure of Information

- A. Each Load-Serving Entity providing either generation service or Standard Offer Service shall prepare a consumer information label that sets forth the following information:
 1. Price to be charged for generation services;

2. Price variability information;
 3. Customer service information; and
 4. Time period to which the reported information applies.
- B.** Each Load-Serving Entity providing either generation service or Standard Offer Service shall provide, upon request, the following information (to the extent reasonably known):
1. Composition of resource portfolio;
 2. Fuel mix characteristics of the resource portfolio; and
 3. Emissions characteristics of the resource portfolio.
- C.** The Utilities Division Director shall develop the format and reporting requirements for the consumer information label to ensure that the information is appropriately and accurately reported and to ensure that customers can use the labels for comparisons among Load-Serving Entities. The format developed by the Utilities Division Director shall be used by each Load-Serving Entity.
- D.** Each Load-Serving Entity shall include the information disclosure label in a prominent position in all written marketing materials specifically targeted to Arizona. When a Load-Serving Entity advertises in nonprint media, or in written materials not specifically targeted to Arizona, the marketing materials shall indicate that the Load-Serving Entity shall provide the consumer information label to the public upon request.
- E.** Each Load-Serving Entity shall prepare an annual disclosure report that aggregates the resource portfolios of the Load-Serving Entity and its affiliates.
- F.** Each Load-Serving Entity shall prepare a statement of its terms of service that sets forth the following information:
1. Actual pricing structure or rate design, including an explanation of price variability and price level adjustments that may cause the price to vary;
 2. Length and description of the applicable contract and provisions and conditions for early termination by either party;
 3. Due date of bills and consequences of late payment;
 4. Conditions under which a credit agency is contacted;
 5. Deposit requirements and interest on deposits;
 6. Limits on warranties and damages;
 7. All charges, fees, and penalties;
 8. Information on consumer rights pertaining to estimated bills, third-party billing, deferred payments, and rescission of supplier switches within three days of receipt of confirmation;
 9. A toll-free telephone number for service complaints;
 10. Provisions for default service;
 11. Applicable provisions of state utility laws; and
 12. Method whereby customers will be notified of changes to the terms of service.
- G.** The consumer information label, the disclosure report, and the terms of service shall be distributed in accordance with the following requirements:
1. Prior to the initiation of service for any retail customer;
 2. Prior to processing written authorization from a retail customer to change Electric Service Providers;
 3. To any person upon request; and
 4. Made a part of the semi-annual and annual reports required by R14-2-1614.
 5. The information described in this subsection shall be posted on an electronic

information medium of the Load-serving Entities.

- H.** Failure to comply with the rules on information disclosure or dissemination of inaccurate information may result in suspension or revocation of certification or other penalties as determined by the Commission.
- I.** The Commission shall establish a consumer information advisory panel to review the effectiveness of the provisions of this Section and to make recommendations for changes in the rules.

